

REPORT OF THE BOARD OF INQUIRY

**into the handling of claims of sexual abuse and misconduct within the
Anglican Diocese of Adelaide**

The Honourable Trevor Olsson

Dr Donna Chung

26 May 2004

When individuals of any congregation fail in their integrity, everyone is a victim and everyone suffers. Nowhere is this more evident than when clergy compromise leadership and violate their trust through sexual misconduct. The challenge of faith communities is thoughtfully to do everything possible to prevent any action that prevents dignity and integrity of another and to face squarely the demands of healing because of the past. This enormous challenge can be appropriately met not in secrecy and isolation but in close cooperation among the professions – medicine, psychiatry, law, social services and religion – and in listening carefully to those who are violated sexually through misuse of power and trust.

**Roman Paur,
Executive Director, Interfaith Sexual Trauma Institute.**

TABLE OF CONTENTS

	Page No.
EXECUTIVE SUMMARY	1
Findings	1
Recommendations	9
<i>Documentation and Records Management</i>	9
<i>Reporting of Complaints</i>	9
<i>Complainant Rights</i>	9
<i>Composition of the Professional Standards Committee</i>	10
<i>Protocols</i>	10
<i>Resources</i>	10
<i>Licence Conditions</i>	11
<i>Personnel Files</i>	11
<i>Education and Training Role of the Professional</i>	11
<i>Standards Director</i>	
<i>Proposals of the National Sexual Abuse Working Group</i>	11
<i>Publication of Report</i>	12
INTRODUCTION	13
Methodology	13
Acknowledgements	16
Report Deadline	16
The Problem of Sexual Abuse	16
<i>Perpetrators of Child Sexual Abuse</i>	17
<i>Children Who Have Been Sexually Abused</i>	18

TABLE OF CONTENTS (Cont'd)

	Page No.
The Relevant Constitutional Setting	20
<i>The Bishop and the Synod</i>	20
<i>Appointment of the Clergy</i>	22
<i>Licences</i>	23
Disciplinary Processes	24
<i>Prescribed Offences</i>	24
<i>Charges and Their Disposal</i>	25
Structures for Dealing with Complaints	27
The Operations of the DRG	37
The Brandenburg Scenario	42
The Church Response to Brandenburg's Death and Events Subsequent to it	53
Issues Arising from the Evidence	60
General Conclusions and Future Directions	79
<i>Complainant Rights</i>	79
<i>Structure for Processing Complaints of Sexual Abuse</i>	80
<i>Independence</i>	81
<i>Consistency</i>	81
<i>Key Features</i>	81
<i>Form of Complaint</i>	82
<i>Formulation of Complaint</i>	82
<i>External, User-friendly Point of Contact</i>	82
<i>Current PSC Processes</i>	83
<i>Composition of PSC</i>	83
<i>The Element of Independence</i>	84

TABLE OF CONTENTS (Cont'd)

	Page No.
<i>Venue</i>	86
<i>Reporting</i>	86
<i>The Danger of Recidivism and its Implications for Complaints Reporting, Investigation and Organizational Communication</i>	87
The Processing of Complaints	88
<i>File Maintenance</i>	88
<i>Investigation</i>	88
<i>PSC Sittings</i>	89
<i>Suspension Recommendation</i>	89
<i>The Problem of Suspension</i>	89
<i>Education and Training</i>	90
The Influence of Risk Management on the Approach to Complaints	90
<i>The Insurance Factor</i>	90
Proposals of the National Sexual Abuse Working Group	91
Publication of Report	93

EXECUTIVE SUMMARY

1. The decision to establish the Board of Inquiry was made by the Synod of the Diocese of Adelaide in May 2003. The Terms of Reference for the independent inquiry into the way in which complaints about sexual abuse or misconduct have been handled are included as Attachment A. The Board has completed its inquiry, and its findings and recommendations are set out in the body of this report. A summary of those findings and recommendations follows:

Findings

2. Sexual abuse within the Diocese of Adelaide is not a new phenomenon. One of the complainants who approached the Board had been abused by a Church worker more than fifty years previously and had not discussed the abuse with anyone until he told his wife in 2003. Many of the events described by victims who spoke to the Board occurred decades ago.
3. The culture of the Anglican Church has changed over the past several decades and it continues to change in response to attitudinal changes and changes in values and beliefs within the community at large. Much of the cultural change appears to have resulted from the efforts of individuals within the Church structure working at various levels to have the significance of the issues recognised. However, the organisation and practices of the Church have, in the past, not necessarily been conducive to a supportive and accountable atmosphere for those who wished to pursue a complaint about a Church worker (ordained or lay). Until recently, in many (if not most) instances the practical effect of the Church attitude was uncaring towards victims and, at times, had the result of undermining the character of both victims and their families. The primary focus was essentially on the Church and any likely effect upon it or, where relevant, its clergy.
4. At various stages of the Inquiry the Board was told that there was limited knowledge about child sexual abuse and that not much was known amongst parishes and Church organisations until recent times. It was said that this prevented abuse from being identified and an appropriate response implemented. Whilst this is a reasonable statement to make in some instances, it was at times made in referring to events occurring in the 1990s. A professed lack of knowledge about child sexual abuse at that point cannot be accepted in light of then prevailing community knowledge. The suggested lack of knowledge is particularly significant as

the Church and its organisations were responsible for activities such as the former Church of England Boys Society (CEBS), schools, alternative care and other services for children.

5. The consequences of inadequate understandings and attitudes to child sexual abuse are worth noting. A lack of knowledge about child sexual abuse perpetrators has had a number of negative impacts:
 - (1) Complaints and concerns were treated as single, one off incidents, and not considered as possibly being part of a broader pattern of behaviour that might involve more than the one victim.
 - (2) When there was an admission of inappropriate sexual behaviour the alleged perpetrator's promise that such behaviours would not continue was often considered adequate intervention.
 - (3) There was disbelief by Church workers about the prevalence of child sexual abuse in society and in their communities of interest.
 - (4) The tactics commonly used by child sexual abuse perpetrators to gain the victim's trust and the trust of the victim's family to help maintain the victim's silence were not recognised, thereby enabling abuse to continue.

6. A limited knowledge of the problems associated with child sexual abuse generally had other negative impacts, which include:
 - (1) Lack of understanding of the courage and difficulty it took for the victim to come forward and speak about abuses that occurred either recently or in the past.
 - (2) Potential to minimize the abusive behaviours as a 'misinterpretation' by the complainant or 'oversensitivity' by their parents.
 - (3) Considerable emphasis on what has variously been described as 'lack of evidence' in cases of complaints. In such cases 'evidence' will rarely be obvious as the perpetrator's tactics are normally based on silence and deception. These tactics often leave the victim in a perceived invidious position with regard to disclosure. Therefore a pro-active investigation of the complaint should have been made. This should have focused on the state of the victim, rather than relying solely on the passive expectation that evidence would have to be made available by the victim or his or her advocates. In the result,

complaints were not followed up with appropriate rigor at times.

- (4) Responses to victims lacked understanding and appropriate intervention to deal with the serious effects of such abuse on their lives in the short and long term.
7. Concern and care for the vulnerable in society has been and continues to be an important role and responsibility of the Church. Unfortunately, the Church organisations and activities have provided predators intent upon child sexual abuse with the opportunity to abuse some of society's most vulnerable individuals - who had the least power and were least able to seek help from trusted adults to stop the situation. These individuals were often, it seems, considered 'trouble makers' who were not compliant and grateful for the Church support they were receiving. Consequently it has been extremely difficult for those individuals to lead fulfilling lives. In some cases, vulnerable adults who sought spiritual and material assistance from Church workers were, as a result of sexual abuse or sexual misconduct on the part of those Church workers, left in a worse situation than when they sought help.
8. The evidence that has been presented to the Board indicates that past pastoral responses often emphasized forgiveness and concern for the person who was the subject of the complaint, at the expense of the complainant. There was an emphasis on the complainant needing to 'forgive' and to 'understand' the perpetrator's motives. It appears that in a number of cases this was associated with maintaining the reputation of the Church and its representatives. The potential possibility of the involvement of the police, at the instance of the Church, was, seemingly, abhorrent.
9. It is evident to the Board that the Diocese initially adopted a defensive approach in its handling of claims of sexual abuse. Often, its first priority seemed to be one of protecting the Church at all costs, even to the extent, on some occasions, of warning complainants that they could be sued for defamation if their complaints could not be substantiated.
10. Victims were, at times, badly let down when the Diocese (and the police), informed them that there was nothing that could be done about their complaints because of the statutory moratorium provisions that may have existed at that point. In such situations it was often the case that neither the Church nor the police conducted investigations to determine whether or not the alleged perpetrator was still active, or to see if there were other victims of the same person.

11. It was not unusual for complainants' allegations to be minimised or for them to be told that their allegations were without foundation. There appeared to be an attitude that a member of the clergy simply would not sexually abuse another person and that any person, but particularly a younger person, who made such a claim, was at best being mischievous.
12. In situations where it was a child making an allegation, there was in some cases an underlying assumption that children's recall of events was not accurate or truthful. The reasons for such beliefs are not clear. In effect this privileged the alleged perpetrator's version of events, which generally involved a denial of the accusations. Unfortunately, such complaints were very rarely passed on to authorities for them to determine the accuracy of allegations. As a result the complaints and concerns were usually dealt with 'in-house' at either parish or diocesan level. The consequences of such an approach on victims included:
 - (1) Furthering victims' guilt and sense of responsibility for the abuse.
 - (2) Isolating them and their families from the Church, their faith and social and familial supports associated with the Church.
 - (3) Being punished for speaking out about the abuse.
 - (4) Furthering their fear of the perpetrator, as nothing had been done to curtail the relevant behaviour, with the result that, in some instances, the abuse continued (or even became worse) following a complaint.
 - (5) Significant longer term effects which negatively impacted on academic achievement, employment opportunities and retention, intimate relationships, family relationships and their mental health and well-being (often across their life span).
13. Prior to 1992, an Archdeacon or Archbishop usually dealt with claims of sexual abuse within the Diocese of Adelaide because there was no formal structure in place for dealing with such matters. In 1992, serious complaints were made in relation to a priest, leading to his arrest and subsequent conviction. This, coupled with another incident, led to a number of new initiatives aimed at improving the Diocese's responses to complaints of sexual abuse. Committees were created and then replaced by other committees. Policies and procedures were developed and it is clear that there was a great deal of discussion about the topic within the Diocese.

14. Unfortunately, despite all this effort and activity, the effectiveness of the Diocese's responses to complaints of sexual abuse did not significantly improve until the latter half of 2003 when the Professional Standards Committee was established. The Board found that, prior to that time, the Diocese handled complaints of sexual abuse in a cumbersome and inefficient manner.
15. The creation of the Diocesan Response Group (DRG) in 1994 was a well-intentioned initiative and members of the DRG contributed their time at no cost. However, its jurisdiction was initially limited to complaints against members of the clergy and there was no effective coordination of the processing of complaints and the DRG was not provided with the resources required to do the job. Further, the DRG perceived its role as being limited to interviewing complainants and respondents and then making recommendations to the Archbishop as to what, if any, further investigations should be carried out. These factors sometimes resulted in inordinate delays in dealing with complaints.
16. The insistence by the DRG on written complaints made it difficult or even impossible for some complainants to pursue their claims and at best this requirement resulted in processing delays.
17. The DRG did not create formal files when complaints of sexual abuse were made and there were no formalised procedures within the Church to ensure that all complaints were followed up. This failure to create proper records resulted in inefficient and slow processing of matters and increased the likelihood of repeat offenders not being detected. Inadequate resourcing therefore had serious negative impacts on the effectiveness of the DRG.
18. What in other forms of organisational life is referred to as 'conflict of interest' was identified as a concern in the evidence before the Board. There was a concern by complainants and others that complaints ought not to be solely heard, investigated or responded to by those who were seen to be familiar or associated with the person complained about. The perception of a lack of independence of those involved, through both personal relationships and by reason of the fact that they were all members of the Anglican Church, has not inspired confidence in potential complainants. They have been wary that the situation complained of would not be investigated thoroughly or objectively. That problem has been further compounded by what can be described as a lack of transparency in the process.

19. For example, the Board found that some victims perceived the DRG as the *alter ego* of the Church rather than an independent group responsible for making an objective appraisal of complaints lodged. The fact that, on some occasions, the Archbishop simply took control of the situation without involving the DRG and on others he took over the handling of cases from the DRG may have contributed to the perception that matters were not dealt with objectively and consistently.
20. Until mid 1999, there was no formal mechanism for dealing with complaints of sexual abuse by Church workers other than members of the clergy. The arrest of a Church worker on multiple charges of child sexual abuse and his apparent suicide on 2 June 1999 led to an extension of the jurisdiction of the DRG to cover *all* Church workers. Prior to that time the administrative systems in place were far from effective for dealing with situations related to lay Church workers. There had, by way of illustration, actually been a series of incidents related to the deceased Church worker referred to that extended back over a lengthy period of time, that were poorly dealt with and the cumulative significance of which was never appreciated. As it later appeared, he had probably sexually abused about 80 young boys associated with Church related organisations over many years.
21. The Board has received evidence relating to more than 80 complaints of sexual abuse by members of the clergy or other Church workers and has spoken with many members of the clergy. It is aware of only two cases where a person of authority within a Church organisation reported a complaint of sexual abuse to the police and/or the welfare authorities. In one of those cases the report was made by a school 17 days after the event and after the offender had fled the country at the instigation of a senior Church person. In the other, the report was made by a school principal. By reason of a lack of prompt report many matters were not investigated adequately and in a timely manner.
22. In some instances, it appears that victims of sexual abuse, after reporting an incident to the Church, decided that they did not wish to take the matter further and, in particular, did not want the police involved. In other instances victims decided not to proceed any further even though they had reported the sexual abuse to the police. The Church was content to accept these attitudes and this led to a failure to conduct a wider, more detailed investigation.
23. Other grounds for dissatisfaction on the part of victims and others are to

be found in the following examples:

- (1) As a group, the victims who spoke to the Board were, generally, very dissatisfied with the Church's handling of their complaints. This arose from a perceived lack of interest in their welfare, a strong impression that they were not believed or had exaggerated the abuse against them, and the lack of feedback as to how their claims were progressing.
- (2) From the late 1990's onwards there appears to have been a steadily heightened awareness of the potential for civil claims against the Church. As a result, a major focus of Church management has tended to be on managing claims and dealing with the insurance and budgetary implications, rather than towards the pastoral needs of victims.
- (3) In one case, the Diocese was unwilling and/or unable to remove an alleged offender from his position on the basis of unproven allegations and this resulted in that member of the clergy remaining in his position for approximately 18 months after he was charged with sexual offences.
- (4) In one particular high profile case, the Church's handling of the situation gave victims and parishioners alike the very strong impression that it was more interested in providing support to the alleged perpetrator than to the victims. This was very distressing for the victims and their families and also created significant rifts within the parish.
- (5) It is evident to the Board that some members of the clergy who had been the subject of claims of sexual abuse were moved on by the Church and/or found positions in other dioceses, where they were able to continue their paedophile activities. There was no effective system in place to ensure that persons who had been convicted of sexual abuse, or had left a parish under suspicion of sexual abuse, were not employed again as a priest.
- (6) In one case of which the Board is aware, a perpetrator was, in effect, directed to flee the country immediately after his conduct became apparent, as an alternative to inevitable prosecution. It may well have been that the conduct of the person giving such a direction actually constituted a criminal offence. In another case, the perpetrator (a brother of a Church Order) was posted overseas. In

both instances this made it impractical for the police to pursue further investigations. Consequently, in one instance, the commission of the relevant offences did not become apparent for many years. The latter perpetrator subsequently returned to South Australia and was ordained as a priest of the Anglican Church.

24. It is acknowledged that there is now greater awareness of child sexual abuse amongst Church workers in the Anglican Church following some interventions after the disclosures of abuse in recent times. As the Church continues its important work with vulnerable members of society it is critical that its mechanisms for ensuring a safe and caring environment for those accessing services continues to develop.
25. In July 2003, a Professional Standards Committee was established and an interim Director of Professional Standards was appointed. Based on the national model being proposed, the Professional Standards Committee is a great improvement on the previous complaints process as it is better resourced and has more comprehensive and appropriate guidelines.
26. However, the Board has concerns about the extent to which the Professional Standards Director is perceived by potential complainants to be independent. The current structure whereby the Director is also the convener and an actual member of the Professional Standards Committee raises concerns about the blurring of roles and functions. The Board does not consider a provision that one committee member of the Professional Standards Committee should be a non-Anglican establishes sufficient independence or transparency. The Board has made specific suggestions for overcoming these problems.
27. In addition to its complaints function, the Professional Standards Committee also has important functions related to education and training, ensuring a more integrated approach than previously existed. The broadening of the approach to include education and training has the potential to bring about some necessary changes to Church culture in relation to sexual misconduct and abuse.
28. The historical legacies of how the Church has dealt with complaints of sexual abuse will continue into the future as past victims find the courage to come forward and speak out. It is accepted that major changes have been taking place in the Church from the 1990s onwards and consequently there is more knowledge amongst Church workers. Better procedures are in place and there is a process of continuous improvement with regard to the handling of complaints of sexual misconduct and abuse. The Diocese

of Adelaide and the Anglican Church generally is to be commended for the initiatives it has undertaken in recent years. The range of tasks that must be undertaken is both complex and wide-ranging and further significant organisational and cultural change will be required to ensure that the Church adequately caters for the future.

Recommendations

The Board specifically recommends that:

Documentation and Records Management

29. Urgent attention be given to implementing administrative arrangements to ensure that proper and adequate files and records relating to all information received concerning possible sexual abuse or misconduct by a Church worker are established and maintained in each case, including the development of requisite pro forma documentation.

Reporting of Complaints

30. Urgent steps be taken within Church bodies to ensure that all responsible personnel understand the importance of making immediate reports of information received with regard to alleged sexual abuse by Church workers. These should be made to the Department of Family and Youth Services and/or the police without any prior intermeddling in the situation. Clear and unequivocal policy directives should be promulgated to that effect and implemented.
31. To the extent that this has not already been done, detailed protocols related to the processing of complaints against employees and disciplinary processes related to them be developed for promulgation to and implementation by all Church bodies. These should be based upon established industrial principle and best practice and steps ought to be taken to ensure that managers are conversant with them.

Complainant Rights

32. The Church ought to take as its commencement point a charter of fundamental rights of complainants of sexual abuse akin to those recommended by the Uniting Church in Australia Commission on Women and Men, 1992. That Commission pointed out that it was important, inter alia, to respect the following rights –

- (1) To be taken seriously
- (2) To be treated with dignity, respect, sensitivity and understanding
- (3) To be given information
- (4) To retain complete control of their personal situation
- (5) To have privacy and confidentiality
- (6) To be provided with a proper standard of medical treatment
- (7) To seek justice through the legal system where appropriate
- (8) To be provided with appropriate pastoral help and support

Composition of Professional Standards Committee

33. The current composition of the PSC be reviewed and that the Director of Professional Standards not be a member of it. An independent, part-time supervisory office of Independent Ombudsman ought to be created, with the particular responsibility for auditing the activities of the Director and the PSC in manner referred to in paragraph 254.

Protocols

34. Protocols be put in place to mandate that:
 - (1) Any member of the clergy, employee of a Church body or other Church worker who receives information that suggests a real possibility that a criminal offence of the nature of sexual abuse may have been committed shall forthwith report that information to the Director of Professional Standards;
 - (2) Forthwith upon the receipt of such information, the Director must report it to the police and FAYS; and that
 - (3) The Director also will ensure that necessary steps are taken to ascertain whether there are other victims (past or present) who have been sexually abused by the same alleged perpetrator.

Resources

35. Measures be taken (including the provision of adequate resources) to ensure that the PSC is in a position to consider and report on all matters coming before it with due expedition, having regard to the need to observe the dictates of principles of natural justice and for cooperation with the police.

Licence Conditions

36. Consideration be given to the insertion into all future licences of appropriate reservations of rights of suspension and at least temporary redeployment in appropriate cases; and that, as a matter of policy, further unqualified licences be not granted.

Personnel Files

37. In future, professionally designed and maintained personnel files be established in respect of all members of the clergy and other Church workers and that these include details of reports of all “information”, as and when received, and the outcomes of any investigations or convictions in relation to them.

Education and Training Role of the Professional Standards Director

38. The education and training activities of the Professional Standards Director be conducted in partnership with relevant external experts to ensure best practice is promoted within the Church and that it shares with the broader community a common concern with ameliorating sexual abuse and its negative effects.

Proposals of the National Sexual Abuse Working Group

39. The following identified weaknesses of the National Sexual Abuse Working Group’s Protocols be addressed in its future implementation:
 - (1) A fundamental deficiency in the scheme envisaged by the draft Ordinance is a lack of transparency that, in reality, can only be provided by some independent oversight of the overall process.
 - (2) Whilst the draft Ordinance envisages that one member of the PSC shall be a person who is not a member of the Church, in practical terms, such a member could only have a very limited role to play in satisfying the obvious intention of the infusion of an element of independence and transparency into the process.
 - (3) He or she would not have any oversight of the total process. That person would be bound by committee confidentiality and become very much part and parcel of the committee itself. The role would necessarily be limited to the initial adjudication of examinable conduct and information, with a view to recommendation to a

relevant Church authority or reference to the proposed Professional Standards Board pursuant to Clause 54.

Publication of Report

40. The contents of this report ought to be released into the public domain. Whilst this is essentially a matter of policy for decision by the Archbishop and the Diocesan Council, it is the recommendation of the Board that the whole of the report be so released. However, the Board recommends that the names of the various persons who are referred to by code in the body of the report be not so released, for the very reason that a code was employed in the first instance. There is no obvious requirement to release those names; to do so would be to constitute a breach of faith to many witnesses who appeared before the Board. The publishing of their names would simply add to an already great hurt occasioned to many of them.

41. All files and transcript relating to the Board of Inquiry's proceedings will be placed in sealed boxes as a permanent record of its activities and delivered to the Adelaide Church Office. It recommends that access be not permitted to this confidential material other than with the express approval of the Archbishop and Diocesan Council. Further, it is recommended that should such approval be granted, persons given access to the material ought to be required to enter into a confidentiality agreement with the Church. The Board is of the view that, if any files related to class action litigants are proposed to be accessed, then, as a matter of proper protocol, due notice of the proposal ought to be given to the solicitors for any litigants concerned. This will enable them to make such representations as they deem appropriate.

INTRODUCTION

42. By resolution dated 9 July 2003 the Diocesan Council of the Anglican Diocese of Adelaide appointed the Honourable Trevor Olsson (as the Presiding Member) and Dr Donna Chung (as a Member) to constitute a Board of Inquiry to look into the past handling of child sexual abuse complaints or misconduct in the Church. The Diocesan Council also approved detailed Terms of Reference for the inquiry, which are included as Attachment A.

Methodology

43. At the time of embarking upon its task the Board had relatively little primary information beyond that which was then in the public domain and was largely orientated towards sexual abuses said to have been perpetrated by one Robert Brandenburg upon young male members of what is now known as CEBS. It was, however, aware of the fact that certain class-action civil proceedings were being taken against the Church and that a body of information was held by Yarrow Place, an organisation that had, in recent times, been contracted by the Church to operate a so-called telephone "*hotline*" established to enable victims of sexual abuse to communicate with and seek assistance from it.
44. The Board determined at the outset that it was necessary to adopt what was essentially a three-phase information gathering process, given that, to some extent, certain activities within the phases could overlap. Nevertheless, in the main, they were essentially sequential. Those phases were –

(1) Phase 1

Make contact with all identifiable potential sources of information and request relevant input from them. This included:

- (a) Placing advertisements in the print media, calling for submissions to the Board;
- (b) Seeking access to Church Office files thought to exist and have relevance to the terms of reference of the Board;
- (c) Corresponding with about 80 parishes and Church bodies, seeking relevant input from them;

- (d) Communicating with the solicitors acting for the class-action litigants requesting details from their clients relevant to the inquiry; and
- (e) Arranging for a common form letter inviting submissions to be circulated to all identified complainants currently asserting the commission of criminal offences by persons associated with the Church.

(2) **Phase 2**

Arrange for the Executive Officer of the Board to conduct preliminary, informal interviews with persons communicating with it as a result of Phase 1 activities, following up obvious information leads arising from those communications and pursuing necessary follow on researches into documentary records held by Church authorities or bodies pertinent to the matters stemming from Phase 1 activities. In part this Phase constituted a "*winnowing*" process, designed to assist in determining what witnesses should be requested to give evidence before the Board and what further lines of inquiry ought to be pursued.

(3) **Phase 3**

Conduct two successive rounds of formal sittings of the Board to take detailed evidence relevant to its terms of reference.

- (a) The first round was to be directed to those witnesses who were able to provide information concerning alleged conduct falling within the terms of reference and identifying persons to whom such information was provided.
- (b) The second was to be devoted to taking evidence from such of the last mentioned persons as were prepared to attend before the Board, having first been supplied with details of their asserted involvement in the provision of information.
- (c) Evidence was also to be taken from persons able to inform the Board as to the manner in which information had, in fact, been processed and/or acted upon, or that was otherwise relevant to specific aspects of terms of reference.

45. To enable the Board to perform its task a small secretariat was established within the premises of the Industrial Relations Court and Commission of South Australia, which hosted it in many respects. The Board expresses its gratitude to the President of those tribunals and his staff for the ready assistance given and the excellent facilities made available.
46. It did not prove possible to appoint the necessary staff and establish the requisite office facilities until part way through September 2003. Thereafter, the initial flow of information and initial procurement of documentary records proved to be a slow process, although, by late November 2003, the tempo increased markedly. It was not feasible for the Board to commence its first round sittings until the last week of November 2003, and they continued until 31 March 2004.
47. Most evidentiary material was garnered within South Australia, although certain key witnesses were located in several other States. It became necessary for the Executive Officer of the Board to make a visit to Sydney and for the Board to sit in Brisbane in order to secure this evidence.
48. By the conclusion of its information procurement activities, the Board had opened 310 separate information files, the key content of which was inserted into an electronic database. It had taken evidence from a total of 95 witnesses in formal sittings. In some instances this was done by video link. The Executive Officer also interviewed and took preliminary statements from about 47 other persons. For a variety of reasons those persons were not called to give formal evidence before the Board.
49. Due to the sensitive and confidential nature of the information gathered by it, the Board has found it necessary, in this report, to assign codes to identify many of the persons who provided information to it. It has also done so in relation to certain of the persons alleged to have committed acts of sexual abuse, as their identification would necessarily tend to identify the victims concerned. The key to those codes has separately been forwarded, on a confidential basis, to the Archbishop. In general, the Board is of the opinion that it would be inappropriate to publicly release those details, as to do so would inevitably add to the already great pain and distress endured by persons concerned – in some instances, to the obvious detriment of their health.
50. The evidence before the Board spanned a wide range of circumstances and necessarily extended back, in some instances, to a consideration of events that occurred many years ago. Whilst much of the witness evidence related to the conduct of Brandenburg and persons known to him

and associated with CEBS, nevertheless, it also touched on a substantial number of other allegations of sexual abuse. Many of the latter are currently under investigation by the police task force.

Acknowledgements

51. The Board would like to take this opportunity of paying tribute to the many witnesses who eventually appeared before it and gave evidence concerning what had occurred to them. For most it was clearly a very painful (albeit, in some instances, possibly cathartic) process that required considerable resolution, courage and fortitude on their part.
52. The Board was also very grateful to Ms Vanessa Swann and Ms Anne-Marie Hayes of Yarrow Place, Dr Patrick O’Leary of the University of South Australia and Ms Helen Last of In Good Faith Associates for their valuable contributions.
53. The secretariat was staffed by Mr John Witham as Executive Officer and Ms Tracey Quigley, as his Personal Assistant. Ms Demi Pnevmatikos was later engaged, on a part-time basis, to assist with clerical and administrative activities within the secretariat. The Board takes this opportunity of paying tribute to each of them for the dedication and efficiency with which they discharged what proved to be a very onerous and demanding task; and the manner in which they were able to meet the very considerable demands placed on them in the timeframes available.

Report Deadline

54. The terms of reference originally envisaged the presentation of this report by 31 January 2004. Soon after embarking upon its task the Board assessed that it was manifestly impossible to meet such a deadline. In part, that conclusion stemmed from the time taken to establish a secretariat and the need to catalyze a flow of relevant information, as elsewhere described. However, there were even more fundamental problems encountered, which related to difficulties and delays in obtaining necessary files and documents, detailed later in the report.

The Problem of Sexual Abuse

55. Whilst sexual abuse of adults and children is understood to have occurred for centuries it is only in the past few decades that it has been acknowledged and spoken about as a social problem. In the early 1970s when child sexual abuse began to be more extensively discussed it

primarily focused on female children. By the late 1970s it was recognised that male children were also victims of sexual abuse¹. Whilst there is continuing controversy about prevalence rates of child sexual abuse, it is generally considered to affect one in four females and one in six males. In the case of child sexual abuse within churches it is estimated that over eighty five percent of the victims are male children².

56. Two major barriers to addressing and preventing child sexual abuse have been the secrecy associated with the problem which has prevented victims being able to disclose and community attitudes which have denied its existence, reinforcing a culture of secrecy and disbelief for those victimised by sexual abuse.
57. The disclosure of victims has brought about an awareness of child sexual abuse in some segments of the community, particularly of male victims most recently.

“Scandals involving sexual abuse in public institutions such as the church have led to a dramatic increase in community awareness that victims of child sexual abuse are not uncommonly male”³

58. This has led to media interest in the issue and resulted in churches acknowledging that child sexual abuse has occurred and that there must be both a response to those who have been victimised and strategies implemented to prevent such abuse in the future.

Perpetrators of Child Sexual Abuse

59. Perpetrators of child sexual abuse are predominantly male and are more likely to be known to the child and in a position of trust. In relation to gender, female children are more often abused by a family member and male children by a perpetrator outside of the family and known to the child⁴.
60. Research has identified that perpetrators of child sexual abuse use a number of psychological and physical tactics to ensure the child victim's secrecy and compliance with the abuse. Tactics include emotional manipulation that confuses care and abuse, supply of gifts, promises,

¹ Finkelhor D (1979) *Sexually Victimized Children*. New: Free Press

² Kornblum J (2002, 24th July) 85% of church victims are male, research finds. *USA Today* p.6

³ O'Leary P (2002) *Men who were Sexually Abused as Children* Doctor of Philosophy Thesis (unpub) Flinders University of South Australia, p.6

⁴ Gold S, Elhai J, Swingle J and Hughes D (1998) Abuse characteristics among childhood sexual abuse survivors in therapy: a gender comparison *Child Abuse and Neglect* 22 (10) 1005-12

threats such as telling the child s/he will not be believed or that disclosure will make things worse and threatening to harm the child if they disclose. In the case of male victims, a fear of being labeled homosexual if they disclose also acts to silence them and prevent the perpetrator being identified.

61. High rates of recidivism amongst child sexual abuse perpetrators have been found, which results in there commonly being multiple victims of individual offenders. In situations where perpetrators have high levels of mobility through their employment or other means it makes them difficult to be identified and a considerable threat to children.

62. A strategy commonly used by perpetrators to sexually abuse is best summarised by Patrick O’Leary⁵:

“The most common strategy used by perpetrators is to form a relationship where time can be spent alone with the child. This process is often referred to as ‘grooming’, where perpetrators spend much time gaining trust and gradually exposing the child to sexual attention”.

63. Perpetrators of child sexual abuse generally deny their offending behaviour or make claims that it was mutually consenting, trying to emphasise sexuality rather than defining the behaviour as abuse. The massive power differentials between the child victim and the adult perpetrator are central to maintaining the child’s silence about the abuse.

64. It must be said that virtually all of the foregoing features have emerged, in one context or another, during the course of evidence given before the Board.

Children Who Have Been Sexually Abused

65. There is an increasingly large body of research literature outlining the effects of child sexual abuse.

66. The known effects of childhood sexual abuse include:

- Guilt and self blame
- Significant psychological problems such as anxiety and depression
- Suicidal ideation (ten times the rate of general population amongst

⁵ O’Leary (2002) p.22

- male victims)
 - Post traumatic stress disorder
 - Poor social functioning
 - Poor educational and vocational outcomes relative to ability
 - Sexuality confusion and difficulties
 - Difficulties in intimate relationships
 - Self Identity problems associated with inferiority and vulnerability
 - Men who were childhood victims experiencing high rates of anger towards others
67. In relation to disclosure and coping strategies O’Leary’s (2002) large scale Australian study had a number of important findings, one of which was that males took longer to disclose than females, forty five percent of men took in excess of twenty years to speak about the abuse to someone. This is an important consideration for the Church in developing future strategies.
68. Once again, the Board notes that all of the above features emerged, in one case or another, in the course of the evidence before it.
69. Coping strategies amongst men showed that suppression and denial was the most common strategy adopted by men. This had significant adverse outcomes as can be seen from the effects described above. Self medication (for example drug use) was a common coping mechanism adopted by men, which had psychological, social and physical ill effects. A further negative coping strategy identified was the minimisation of the effects of sexual abuse.
70. Positive coping strategies included discussing the experience with an empathic and non-judgmental listener, positive reframing of the experience, the use of social support and refusing to dwell on the experience whilst accepting that it had happened.
71. The growing body of research and clinical literature provides the Church with ample evidence of the devastating effects of childhood sexual abuse. Importantly, the research also points to the types of structural, organisational, educational and pastoral strategies that the Church can work towards in the prevention and early identification of such abuse and supportive responses to those affected.

The Relevant Constitutional Setting

72. Those points having been made, it is necessary to commence the substance of this Report by recapitulating the constitutional setting within which events relevant to this Inquiry took place.
73. The Terms of Reference require the Board to confine its attention to processes that involve Church authorities and bodies within the Anglican Church of Australia in the Diocese of Adelaide, given that some relevant factual events may have actually taken place outside the geographic boundaries of that Diocese. However, it must be borne in mind that certain events date back many years. Prior to 31 March 1970 what is now The Diocese of the Murray was portion or under the administration of The Diocese of Adelaide. The Board has therefore approached its task with that in mind.
74. The Board did not, at first, find it a simple exercise to appreciate precisely how the lines of power, authority and responsibility ran within the Diocese, bearing in mind the somewhat decentralized constitutional structure in existence. It is indebted to the Archbishop, the Chancellor (The Honourable Justice Bleby), and the Archdeacon of Adelaide, the Venerable John Collas, for the information supplied by them in that regard.
75. The Diocese of Adelaide is one of a series of Dioceses in the Province of South Australia that, in their totality, constitute the South Australian element of the Anglican Church of Australia. It continues in existence by virtue of the provisions of Chapter VIII of the Constitution of that Church ("*The Australian Constitution*") and has its own separate Constitution.

The Bishop and the Synod.

76. Chapter 1 of the Constitution of The Diocese of Adelaide provides that the authority and power to provide for the life and growth, the order and good government and management of the affairs of the Diocese is vested in the Bishop and the Synod (which, for such purposes, may exercise the powers conferred on it in the Constitution).
77. Subject to the Constitution, the Ordinances made under it and the Constitution of the Anglican Church of Australia (and any Canons and Rules made under the latter Constitution) the Bishop is entitled to have and exercise, within the Diocese, "*all and singular the powers and authorities which are inherent in his office*". The Archbishop is

particularly responsible for the ministry of the Church throughout the Diocese and, in order to carry this out, licenses priests, and, in some circumstances, lay persons to carry out his ministry for him.

78. For its part, the Synod is constituted as the Governing Body for the management of the affairs of the Diocese. It is invested with a comprehensive series of specific powers, including the power to make, alter or repeal such Ordinances as shall, in its opinion, be necessary or conducive to the order and good government of The Anglican Church of Australia within the Diocese. However, in practical terms, the Bishop can exercise a right of veto of any measure passed by the lay members and the clergy.
79. The Bishop, if present, presides over meetings of the Synod, which normally meets once each year. That body consists of in excess of 300 persons, including various persons *ex officio*, all licensed members of the clergy and a substantial number of lay persons, mainly representative of the various parishes.
80. Chapter IV of the Constitution of the Diocese of Adelaide establishes a Diocesan Council presided over by the Bishop and also comprised of the Chancellor, Assistant Bishop (if any), the Dean of Adelaide, the Archdeacon of Adelaide, every Archdeacon and of the Secretary of Synod (*ex officio*), at least five members of the clergy and ten lay members of the Synod, together with up to three other communicants. (There can be as many as seven members of the clergy and twenty lay members.) The Council is a council of advice to the Bishop and also the executive committee of Synod, with authority to act on behalf of Synod and exercise its executive and administrative powers between meetings.
81. Individual parishes within the Diocese are established and registered in the manner provided by the Constitution and The Registration of Parishes Ordinance 1985. In essence, that process is controlled by the Diocesan Council. There are currently 68 parishes registered within the Diocese.
82. The Bishop is elected to office in accordance with the provisions of a specific Ordinance bearing on that topic.
83. The precise powers of the Bishop are not spelt out in the Constitution or Ordinances of the Diocese. In large measure, they appear to be based on historical doctrine and custom.

Appointment of the Clergy

84. (1) The numerical bulk of the clergy are those appointed to exercise their ministry in specific parishes, although other clergy are to be found in specific posts within Church related organisations such as schools, various chaplaincies and the like. Yet others perform administrative duties within the Diocese. In each instance the nature and tenure of office of a member of the clergy is that stipulated in the Ordinances of the Diocese and the relevant licence granted by the Bishop.
- (2) At the risk of some oversimplification, it may be said that, within the parishes, there are three levels of clergy, namely assistant curates, priests in charge and rectors. Additionally, the Bishop from time to time licences suitable persons as deacons. Such persons hold office at will. They may preach and perform a limited range of other priestly duties. The issue of such a licence will usually be the first step along the way towards a person being ordained as an assistant curate.
- (3) In terms of the licences issued to them assistant curates either hold office at the pleasure of the Bishop or subject to three months' notice of revocation. Dependent upon the precise terms of the licence an assistant curate may be redeployed by the Bishop in his discretion. Licences of this type are issued to priests beginning their ministry and are specifically related to posts subject to the supervision of a senior priest. Licences issued to assistant curates in particular may be "*at pleasure*".
- (4) By way of contrast, rectors have traditionally held so-called incumbent appointments, in which they have had unqualified tenure within a parish until the prescribed retirement age, subject to removal for disciplinary reasons in manner later referred to. The Board is informed that, in more recent times, the Bishop has determined that such licences may be subject to a condition entitling him to revoke on three months' notice.
85. The situation of priests in charge is not quite so clear. They certainly do not have tenure in the same manner as rectors. The relevant licence may appoint them for a term, or subject to specific review. It is said that it is normally open to the Bishop to revoke the licence of a priest in charge on three months' notice, pursuant to a term in the licence to that effect. After serving five years as a priest in charge, a licensee may petition the Bishop for status as a rector.

86. (1) Additionally, certain priests are, in the discretion of the Bishop, appointed as Archdeacons. Their task is to oversee either a geographic area, or group of parishes or entities. They have rights of visitation and, in effect, act as representatives of the Bishop.
- (2) In a memorandum dated 23 November 1976 issued by the then Archbishop, it was stipulated that the Archdeacon should draw to the attention of the Archbishop any matters concerning the well-being of the Church, its clergy and people, in his archdeaconry, which he considers need the pastoral or administrative attention of the Archbishop.
- (3) The Archdeacon of Adelaide is appointed under the *Dean and Chapter Incorporated* and has absolute tenure. He is the senior priest in the Diocese under the Archbishop and has a range of administrative duties. He also has a leadership role and close advisory relationship with the Archbishop. He may administer the Diocese in the absence of the Archbishop in certain circumstances.
- (4) Members of the clergy may also be appointed to positions such as Canon of the Cathedral or an Area Dean.

Licences

87. (1) All members of the clergy exercise their priestly functions by virtue of a licence to do so granted by the Bishop. That licence is only operative within the Diocese and is specifically directed to the functions related to the post to which the priest is appointed, although it is open to the Bishop to grant a so-called "*General*" licence. Such a license does not appoint the grantee to a specific office or role. In recent times general licences have not been issued as a matter of policy.
- (2) Special types of licence are issued to cover part-time or specific ministries and *locum tenens* situations, wherever a parish is vacant or the incumbent absent or unable to minister. *Locum tenens* licences are normally for specific time periods, subject to renewal. The Bishop may also grant authorities known as "*permissions to officiate*" (under the supervision of a licensed priest) for a variety of other purposes. These can, for example, be granted to retired clergy, visiting priests and lay persons.

(3) Whilst the grant of a licence is in the discretion of the Bishop, a licensee possesses a good deal of latitude in the manner in which that person undertakes their ministry and, subject to the relevant Ordinances of the Synod, has limited accountability. Subject to any express reservations in a license, the Bishop can insist on compliance with the prescriptions contained in Ordinances but otherwise generally exerts his influence by provision of advice, instruction and encouragement. This is particularly so in relation to spiritual activities.

88. The Board was told that, at the present time, the following licences are current in the Diocese –

Rectors/Priests in charge	58
Assistant Curates/Associates	22
Non parochial (including academics)	7
Chaplaincies	17
Administration	2
Defence Force	1

	107

Disciplinary Processes

89. There are formal disciplinary processes prescribed by Ordinance for dealing with allegations of inappropriate behaviour on the part of licensed clergy. No such processes have been erected in respect of allegations concerning other Church workers.

90. Clause 53 of the Australian Constitution provides (*inter alia*) that there shall be a Diocesan Tribunal of each Diocese. Clause 54 prescribes its detailed composition and function. The Tribunal is invested with jurisdiction, in respect of any person licensed by the Bishop (or any person in holy orders resident in the Diocese), to hear and determine charges of breaches of faith, ritual, ceremonial or discipline and of such offences as may be specified by any Canon, Ordinance or rules.

Prescribed Offences

91. Certain offences are prescribed by the Offences Canon 1962-1998, enacted pursuant to the Australian Constitution. Those so stipulated are -

- (1) Unchastity
- (2) Drunkenness
- (3) Habitual and wilful neglect of ministerial duty after written admonition in respect thereof by the bishop of the diocese.
- (4) Wilful failure to pay just debts
- (5) Conduct, whenever occurring,
 - (a) which would be disgraceful if committed by a member of the clergy, and
 - (b) which at the time the charges preferred is productive, or if known publicly would be productive, of scandal or evil report.
- (6) Any other offence prescribed by an ordinance of the synod of the diocese.

These were adopted by the Diocese of Adelaide in 1983, prior to which a slightly different range of offences was prescribed. Up until 1983 there was a three-year limitation period after commission of an offence within which a charge had to be brought. That limitation was removed in 1983.

92. Clause 6A of The Clergy Discipline Ordinance, enacted by The Synod of the Diocese of Adelaide in 1995 specified three additional offences, namely –

Conduct unbecoming the office and work of a priest;
Racial abuse or harassment; and
Sexual abuse or harassment

Charges and Their Disposal

93. (1) The lastmentioned Ordinance sets out a detailed procedure for the disposition of any charge, which must, in the first instance, be addressed to the Bishop. By virtue of clause 54 (3) a charge may be promoted only by a person appointed by the Bishop of the relevant Diocese or any five adult communicants of the Anglican Church resident within the Diocese.

- (2) If a charge is addressed to the Bishop the matter is to be processed in one of two ways, dependent upon the situation.
94. If, in relation to the subject matter, the member of the clergy has been charged in court of law with a criminal offence, the Bishop may refer the charge presented to him direct to the Diocesan Tribunal. That Tribunal normally comprises the Bishop or his Deputy, one Clergyman and one lay person from the so-called Panel of Assessors – although it can be comprised of a greater number of persons in certain circumstances. The Ordinance envisages that the Tribunal will not normally proceed to hear and determine the matter until the secular proceedings are completed.
95. In a case where a secular charge has been brought the Bishop, with the concurrence of the Diocesan Council, may suspend the person charged, with or without continuance of stipend.
96. The Ordinance envisages the appointment, from time to time, of persons to constitute a board of inquiry. In the event that a person charged has not also been charged with a relevant offence in a court of law, the board of inquiry is to consider the charge, any related documentary material, witness statements and the reply of the respondent. It is then to report to the Bishop whether, in its opinion, there is sufficient evidence to warrant the charge being heard by the Diocesan Tribunal.
97. In the event that the board is of the opinion that the charge is proper to be heard by the Tribunal, the Secretary of Synod is required to appoint the time and place at which members to constitute the particular Diocesan Tribunal are to be selected, in accordance with the Ordinance.
98. Once the selection process is complete, a time and place for a hearing of the charge is appointed and notified to the person preferring the charge and the person charged. Subject to any necessary interlocutory applications, the matter then proceeds to trial *in camera*.
99. It is to be noted that the Ordinance does not appear to confer any power of suspension pending trial if the matter is processed in accordance with this second procedure. Nevertheless, clause 61 of the Australian Constitution, in the form in which it had been adopted by the Synod of the Diocese of Adelaide prior to 16 June 2003, provided that, where a charge was pending before a Tribunal against any person licensed by the Bishop of a Diocese, the Bishop, with the concurrence of the Diocesan Council, may suspend such person from the duties of his office until the determination of the charge. He may make such arrangements for the performance of

the duties of the office as may be authorised by any Canon, Ordinance or rule or, in the absence of such Canon, Ordinance or rule, as the Bishop may deem proper.

100. This power did not arise until after the board of inquiry actually determined that a charge was proper to be heard by the Tribunal. That might well be a considerable time after a charge was first brought. However, clause 61 was later amended to confer a general power of suspension of “*a person who is or may be liable to the jurisdiction of the diocesan tribunal...*”. This provision was adopted in the Diocese of Adelaide with effect from the above date.
101. In the event that the charge is found proved the Tribunal is enjoined to make a recommendation as to sentence, the available options being –
 - (1) monition
 - (2) suspension from office
 - (3) expulsion from office
 - (4) deprivation of rights and emoluments of office
 - (5) deposition from holy orders
102. Clause 60 of the Australian Constitution requires the Bishop to give effect to the recommendation, subject to his prerogative of mercy to suspend its operation, or mitigate it and suspend its operation.
103. Ultimate right of appeal lies to a national appellate tribunal constituted under the Australian Constitution.
104. It will at once be observed that the above procedure is both relatively complex and certainly very time-consuming. In most instances it would patently extend over a long period of time before some final resolution could reasonably emerge. The Board was informed that the processing of a recent allegation of the commission of a serious offence by a member of the clergy took of the order of 18 months from initial notification to final disposal, including an appeal process. The primary processes occupied eight months.

Structures for Dealing with Complaints

105. The present Archbishop was installed in June 1991. The evidence indicates that, until Synod 1994, there were no formal structures within the Diocese for receiving and activating the processing of complaints or allegations of misconduct (not giving rise to the charge of a prescribed

offence) on the part of either clergy or other Church workers. The only formal process was that set out in the present Clergy Discipline Ordinance 1983 and its predecessor, which was enlivened when some person actually lodged a formal charge of a prescribed clerical offence with the Archbishop. That procedure was, of course, limited to allegations against members of the clergy.

106. In practice any complaints were usually made either to an Archdeacon or the Archbishop and then dealt with by one or other (or both) of those functionaries as they saw fit.
107. Serious complaints were made in relation to a priest POI 1, leading to his arrest in early 1992 and subsequent conviction in a secular court of two counts of attempted acts of gross indecency on 7 September 1991. This, coupled with another incident, appears to have catalysed the creation, by the Archbishop, of a body known as the Critical Incidents Task Force (CITF) that seems also to have been referred to by other variants of such title.
108. The principal function of that body was to evolve formal guidelines for dealing with allegations of inappropriate sexual behaviour against the clergy in The Diocese of Adelaide. The CITF was comprised of the Archbishop, Ms Christine Doer, Dr Tania Black, Mr Robert Field, Mr Gerard Menses, Mr Peter Bleby, Bishop Bruce Rosier, the Rev Philip Carter and Archdeacon Brian Smith (Chairman). It first convened on 30 September 1992.
109. The CITF produced draft guidelines that were widely circulated for comment on 7 June 1993. These contemplated two specific strategies, namely –
 - (1) The creation of a position of Independent Adviser, to which a suitable person (preferably a woman) should be appointed by the Archbishop, with the approval of the Diocesan Council. The role of that person was to be:

“to liaise between a person bringing a complaint of inappropriate sexual activity and the Church, to advise the complainant of his or her rights and options, including the right not to proceed further with the matter, and to ensure that support is in place to assist the complainant through the necessary Church and legal procedures if this is their chosen course.”

- (2) The erection of a body to be known as the Diocesan Response Group (DRG), appointed by the Archbishop with the approval of Diocesan Council, to be responsible for the management of the Diocese's dealings with alleged cases of inappropriate sexual activity by clergy. This was to be a permanent body accountable to the Bishop and to act in place of the Bishop in the management of a response.

110. A finally approved Protocol was adopted by Synod in September 1994. The essential features of this were –

- (1) The proposed independent adviser was titled the “Sexually Abusive Behaviour - Complaints Person” and was to discharge the following functions:
 - (a) to liaise between persons bringing a complaint of sexually abusive behaviour by member of the clergy and the Church authorities;
 - (b) to advise the complainants of their rights and options;
 - (c) to ensure that support is given to assist complainants through the necessary Church and legal procedures according to their chosen course of action; and
 - (d) to assist complainants to gain access to any services or resources necessary for their welfare.
- (2) The DRG was to consist of a senior priest of the Diocese, a lawyer, a person knowledgeable in the area of human relationships and a person appointed to chair meetings of the Group. Following appointment of its membership this body first met on 17 April 1996. The Board notes the existence of minutes of a body said to be the Critical Incidents Diocesan Response Group that had met in 1996 and 1997. It infers that this is simply another name for the DRG.
- (3) The first incumbent of the position of Contact Person was Dr Tania Black, who was appointed on 22 December 1995. This was said by her to be an honorary appointment. It was contemplated that the duties would be discharged on an *ad hoc*, part-time basis, as required. The appointment followed the passing, by Synod 1995, of the Ordinance providing for clerical offences additional to those

specified in the relevant Australian Ordinance.

- (4) Dr Black was a highly experienced medical practitioner who, for some years, was attached to what was the precursor of the Rape and Sexual Assault Centre, but was, at the time, working with Breastscreen SA.
- (5) At or about the time of her appointment, a notice was widely circulated amongst the Anglican Church community. This explained the appointment and role of the Contact Person. It invited persons who desired to bring complaints of sexually abusive behaviour by a member of the clergy to telephone a nominated Helpline at the Anglican Church Office, or write to the Contact Person (who was referred to in the notice as “ *the Liaison Person*”).
- (6) The Protocol envisaged that the Contact Person would be the first port of call for any complainant. The published protocol clearly envisaged that, in the event that a person initially proffered a complaint to any person in authority within the Church other than the Contact Person that complaint would normally be directed to the Contact Person, for initial screening.
- (7) The approved protocol stipulated that:

“When a complaint against a member of the clergy of sexually abusive behaviour becomes known to any member of the Diocese, then the complaint shall be reported promptly to the Sexually Abusive Behaviour - Complaints Person. If reported to the Bishop, the Bishop shall at once refer the matter to the Sexually Abusive Behaviour – Complaints Person for investigation. The Sexually Abusive Behaviour – Complaints Person shall forthwith notify the Diocesan Response Group. If the source of the complaint is other than the Bishop, the Sexually Abusive Behaviour - Complaints Person shall immediately advise the Bishop.”
- (8) The protocol enjoined the DRG to obtain such information as was needed and directed that it should, as soon as possible after receiving a complaint, determine what action should be taken, and whether there was a charge proper to be heard.

It must be said that the protocol, as drafted, was less than satisfactory. A witness who was a member of the DRG throughout

its existence said that, at almost every meeting, much time was occupied in discussing its deficiencies, its proper interpretation and proposals for its improvement. The Board agrees that the form and content of the document certainly left a good deal to be desired. Certain of its paragraphs were clearly open to various possible interpretations.

The protocol envisaged the attendance of a complainant before the DRG to present the substance of the relevant allegation. Any person accused was to be advised of the substance of the allegation made and afforded an opportunity to respond to it.

One particular deficiency in the document was that it is necessary to hunt through it to discern the nature and extent of the intended roles and responsibilities of the DRG. These are expressed in a fragmented manner.

- (9) The protocol directed the DRG to –
- (a) ensure that, so far as possible, any complaint was “*investigated by appropriate persons*”. Reference was made to not hampering police and FACS procedures in so doing;
 - (b) ensure that adequate support and help was offered and made available to alleged victims and families by coordinating appropriate facilities;
 - (c) ensure the provision of similar assistance to alleged offenders;
 - (d) ensure the provision of adequate support to the parish affected, in consultation with the Bishop and the relevant Archdeacon; and
 - (e) coordinate any necessary press releases.
- (10) Later in the document it was stated that a specific function of the DRG, in relation to any complaint, was to make recommendations in writing to the Bishop as to:
- (a) dismissal of the case;
 - (b) the need for further investigation;

- (c) whether there was a charge proper to be heard by the Diocesan Tribunal;
- (d) whether an alleged offender should be stood aside temporarily;
- (e) whether further action should be deferred pending the outcome of criminal proceedings; and
- (f) “*other appropriate matters*”.

There was an obvious overlap between these functions and the role of the board of inquiry under the Clergy Discipline Ordinance 1983.

- (11) It is at least clear that the intention of the protocol was to remove the Bishop from personal involvement in the investigation of matters in which he might ultimately need to make final judgments and decisions.
 - (12) The protocol authorised the DRG to recommend suspension of an accused person pending final disposal of an allegation. It mandated reporting to the relevant statutory authority in respect of alleged child victims.
 - (13) The document envisaged that the DRG would request that a complaint be made to it in writing. This would thereafter be investigated by it, if necessary, in concert with the police.
 - (14) The protocol, as adopted, recommended, in effect, that consideration be given to establishing a Critical Incidents Support Team to provide support for an alleged victim, an alleged offender and any parish concerned. The Board was told that this concept was never implemented.
111. By mid-1999 concerns had arisen that no corresponding protocol existed in relation to allegations of sexual misconduct on the part of members of the Anglican laity holding positions of responsibility. The Board infers that those concerns and various other initiatives to which reference will shortly be made were, at least in large measure, stimulated by the arrest of Robert Brandenburg (a long time CEBS leader at the State and national levels and, later, an employee of Anglican Community Services) on charges of various sex offences against young people. Steps were taken to develop such a protocol for initial consideration by the Diocesan Council.

112. On 16 June 1999, the Archbishop wrote to the chair of the DRG requesting that it develop an integrated protocol that could cover both the clergy and members of the laity. The letter further requested that, as an interim measure, the DRG deal with any complaints concerning lay Church workers, using the clergy protocol provisions as guidelines for the purpose. The DRG did subsequently propose a separate protocol in relation to lay Church workers. Successive versions of this were approved by the Diocesan Council in December 1999, June 2000 and July 2001.
113. In a report to Synod 1994 the CITF had recommended that, although the clergy and parish based children's and youth leaders did not fall within the legal definition of mandated notifiers under the Children's Protection Act 1993, nevertheless, all Church authorities and agencies should consider themselves bound to notify a statutory authority if they became aware of suspected child abuse.
114. The Board infers that this proposal was accepted. Following the establishment, in 1999, of a working party under the leadership of Mrs Dorothy Thorpe, guidelines for the Protection of Children within the Church were developed and adopted by the Diocesan Council in September 2000. These cover a range of topics and incorporated the above recommendation.
115. In mid-2001 the Diocesan Council adopted formally documented policies dealing with Child Protection, Police Checks and Notification of Child Abuse. A further policy requiring compulsory police checks for all clergy prior to being licensed or authorised for ministry was adopted in November 2002.
116. On 2 June 1999, the day on which he was due to appear in court to answer the charges against him, Brandenburg was found drowned in an Adelaide reservoir in circumstances that suggested that he may have committed suicide. It soon became apparent that there were grounds to believe that he had been guilty of many acts of sexual abuse of young children associated with the CEBS organisation, committed over a lengthy period of time. The Board will return to a more detailed consideration of the Brandenburg revelations in due course.
117. Suffice it, for the moment, to say that, despite some internal agitation within the Church, not a great deal of immediate, positive action was stimulated by the Brandenburg charges. It is fair comment that it was not until the development, in the latter part of 2001, of a great deal of public

controversy concerning the former conduct of the then Governor General concerning sexual abuse within the Anglican Church in Queensland that warning bells really commenced to ring in the Diocese of Adelaide. Eventually, as a consequence of persistent concerns expressed to him within the Church and growing media interest, the Archbishop issued a press release on 22 February 2002. The release stated –

“CHURCH ACTS ON SEXUAL MISCONDUCT AND ABUSE

The Diocese of Adelaide in the Anglican Church has called on people to come forward to seek help and support if they have been victims of sexual misconduct and/or abuse from within the Church.

Making the plea, Archbishop Ian George says we are deeply concerned for people who are often reluctant to revisit circumstances which have had such a destructive impact on their lives.

‘ The Church has processes in place to help people who have suffered in the past.

We are ready to deal with their own experience both personally and confidentially.’

Archbishop George says that the Church acknowledges that over the years there have been incidents involving sexual misconduct by members of the clergy and Church workers.

‘ We regret this deeply. It is totally unacceptable to the Church.

But we hope that by reporting abuse, even if it happened a long time ago, people will be helped and healed and at the same time make the Church a safer place.’

Archbishop George says brochures outlining the Church's concerns have been distributed to parishes and Anglican organisations throughout the Diocese for some time.

‘ We recognise that we have not always handled these matters well in the past, but a great deal of work has been done to make our process appropriate and helpful, and accessible.’

He says that the Anglican Diocese has established Diocesan selection procedures and training programs for people working with children.

People wanting to report or discuss incidents involving sexual misconduct and/or abuse should contact the Diocesan Response Person on the confidential Helpline 8305 9383.”

This received considerable media publicity.

118. In May 2002 the situation was the subject of considerable debate within Synod, which passed resolutions of sorrow and regret, condemning any form of child abuse and urging the DRG to find ways to reach out to victims who had not, at that time, been identified.
119. (1) As a response to the Synod concerns, the Diocesan Council considered a number of issues related to the Brandenburg situation and the response of the Church to his criminal behaviour. It approved the establishment of a Sexual Abuse Task Group (SATG) to develop recommendations concerning future action as to those

matters. The SATG made a series of reports to the Diocesan Council in August, September and October 2002 respectively. In October the Council adopted many of the recommendations made. *Inter alia*, it resolved that -

- (a) The Archbishop and Synod acknowledge that boys were abused by the late Robert Brandenburg.
- (b) There be extended to victims and those associated with them, their regret and apology.
- (c) The same be extended to the Adelaide community.
- (d) It be stated that such behaviour is unacceptable.
- (e) There be expressed a commitment to the further development of better processes to support victims.
- (f) The Church commitment to the further development of policies and protocols to ensure the safety of all young people and children in the Church be reiterated.
- (g) The Church respond appropriately to complaints of sexual abuse and implement education and prevention programs.

Unfortunately, because the DRG was essentially created as a body designed to process complaints, the SATG recommendations did not constitute a basis for facilitating an overall, integrated Diocesan response to sexual abuse and sexual misconduct.

- (2) At the same time the Diocesan Council resolved that the complaints process be outsourced, counselling be provided to victims at the Church's expense, and an invitation be extended to any victims of Brandenburg to make a complaint through the appropriate channels.

120. In December 2002 the Diocese became aware of threatened legal proceedings against it by certain victims of Brandenburg. It was resolved to establish a discrete committee to manage any litigation or claims that might be prosecuted.

121. In accordance with the resolution of the Diocesan Council arrangements were made with Yarrow Place Rape and Sexual Assault Service to establish and maintain an initial contact process for victims of sexual

abuse, independent of the Church. This was to replace the then existing sexual abuse helpline service coordinated by Dr Black. The new arrangement came into effect in February 2003. Yarrow Place staff were authorised to refer the relevant complaints to the police and to arrange counselling to persons affected by abuse at the expense of the Church. That arrangement continues to the present time.

122. Two members of the Anglican clergy who had a particular interest in the Brandenburg scenario, being dissatisfied with the nature and extent of response of the Church to what had occurred held a media conference in Adelaide in May 2003. They publicly expressed their concerns in that regard. There was an enormous media response and interest in relation to the activities of Brandenburg and associated CEBS leaders, particularly as it was suggested that Brandenburg may have been part of a ring of paedophiles within that organisation that had operated in at least three States.
123. The foregoing situation precipitated a series of initiatives. On 23 May 2003 the Archbishop issued a media release in which he stated that, until recently, he had no inkling of how serious the nature and extent of abuse might have been. He said that urgent steps had been and were being taken to address the situation. He conferred with the Commissioner of Police, with the result that the Commissioner established a special Paedophile Task Force to investigate allegations of sexual abuse by members of the clergy and Church workers.
124. Having taken pastoral and legal advice, the Archbishop made a public statement at the opening of the Synod on 29 May 2003 expressing concern for the hurt done to individuals abused by Brandenburg and others. At that time he made a public apology and committed the Diocese to do everything in its power to assist the healing process for those abused and to ensure the future protection of children and young people in the life of the Church.
125. The police Paedophile Task Force is currently continuing its investigations into criminal behaviour. It should be recorded that the Board has at all times worked in cooperation with it and has supplied it with any information coming to its hands that would facilitate inquiries leading to possible prosecution of offenders.
126. For the sake of completeness it should be noted that, in July 2003, the Diocese of Adelaide appointed a Professional Standards Committee (PSC), directly responsible to the Archbishop. This rendered the DRG

structure redundant. Its task was to implement policy and interim protocols for dealing with sexual misconduct by clergy and Church workers. It was supported by a Director of Professional Standards.

127. The committee was brought into existence against the background of work currently being carried out by the Child Protection Committee of the General Synod of the Anglican Church of Australia. It has developed a draft national code for the practice of pastoral ministry by clergy and lay Church workers that has a specific thrust towards preventing child sexual abuse.
128. The erection of the PSC was intended to replace the DRG, which then became redundant. It is a reflection of the poor communication within the Church that, according to the evidence of Dr Ted Sandercock who was the chair of the DRG, he was not informed of that situation at the time. He eventually received a letter from the Archbishop dated 6 February 2004 advising him that the DRG had been dissolved with effect from 9 July 2003.
129. An equally unfortunate aspect of the creation of the PSC is that, as Dr Sandercock pointed out, there has been no communication between that body and himself or other members of the DRG. The benefits of the experience gained by the latter have therefore not been passed on to the former. It follows that there is a risk that the PSC will simply encounter similar difficulties and not profit from the lessons of the past.

The Operations of the DRG

130. The Board is indebted to Dr Sandercock for his thoughtful and candid evidence on this topic. It is clear that the members of the DRG were a group of dedicated persons who strove to render its activities effective. However, with the benefit of hindsight, its practical effectiveness and utility were doomed to be extremely limited from the outset.
131. Comment has elsewhere been made concerning the poorly crafted protocol document that constituted the DRG charter. Dr Sandercock stated that, for a long time, he was actually unaware of the provisions of the Clergy Discipline Ordinance and never briefed as to the processes prescribed by it. It was quite late in the life of the DRG that this became an issue in a particular case, when the obvious overlap and conflict between the Ordinance and the protocol became apparent. Quite properly, the DRG declined, in that case, to intermeddle in it.

132. Secondly, the DRG had no discrete budget and no dedicated resources or infrastructure, given the existence of the independent Contact Person. Its members were all part-time volunteers, with considerable normal commitments of their own. It was usually impractical for the DRG to meet at short notice, with the result that the examination of matters referred to it not infrequently took an inordinate time. Moreover, it was entirely dependent on the goodwill of Church Office administrators to secure any resources at all.
133. Thirdly, because there was no dedicated administrative infrastructure, the DRG had no central filing system. It was left to the members to organise the raising of minutes and to individuals to maintain their own documentation. The Board was informed that, in relation to the examination of specific complaints, records of interviews with relevant persons were given back to them to protect confidentiality, once a report had been sent to the Archbishop. In the result, the DRG itself was left with no record at all of individual cases, save for any copies of documents that may have been retained by individual members.
134. The Board is also indebted to Mr Rob Croser, a member of the DRG, for making available a collection of documents that he personally had preserved. As Dr Sandercock said, the lack of a proper filing system and failure to retain records of interview necessarily meant that there was no ongoing historical record that could be referred to, apropos any individual, in the event of subsequent incidents or complaints with regard to that person.
135. Referrals came to the DRG either from the Contact Person (who, simultaneously also advised the Archbishop of them), or the Archbishop. The DRG perceived its role as being quite limited. That role, as so perceived, could be summarised thus –
- (1) To ensure that any complaint was committed to a written form. At an early stage the DRG rapidly came to realise that this presented a real problem, for reasons that the Board will separately discuss elsewhere. As Dr Sandercock put it – “...it was just too hard for people”. The DRG eventually arranged for an independent third person to assist complainants to satisfy that requirement.
 - (2) To interview both the complainant and any person who was the subject of the complaint and make written or electronic records of the substance of the interviews. This was normally done, in each instance, by a team of two members of the DRG, if possible at a

neutral venue.

- (3) To discuss the complaint in full session in light of the interviews and arrive at a conclusion as to what action was desirable in the circumstances.
 - (4) To render a written report as to that conclusion to the Archbishop.
136. Dr Sandercock told the Board that, because it had no resources with which to do so, the DRG was incapable of pursuing investigations in an individual case, beyond the conduct of the interviews above referred to. It saw its role as being, *inter alia*, merely to recommend to the Archbishop what investigations ought to be pursued. It was then for the Archbishop to give such directions in that regard as he saw fit.
 137. One problem that inevitably arose from this situation was a strong possibility that a complainant would have to undergo the traumatic process of repeat interviews several times throughout the overall progress of case. In the event of a formal charge this could be up to four times, including the initial interview with the Contact Person.
 138. This witness also stated that a particular problem that arose was that, having rendered its report, there was often an almost total dearth of "feedback" to the DRG from the Archbishop, once a report was rendered to the latter. This left the DRG in the dark as to what further action, if any, it should take, particularly, for example, by way of ensuring proper support for the principal parties and the Parish.
 139. Feedback could often only be procured when Dr Sandercock took the initiative of asking the Archbishop where a specific matter stood. Perhaps the low watermark on the issue of lack of communication was the failure of the Archbishop to inform the DRG of its own demise until long after the event.
 140. Equally, it should be recorded that, in the course of taking evidence, the Board received many complaints from witnesses concerning lack of feedback to them as to what had been done in relation to matters of concern that they had voiced.
 141. It must be said that, try as it may, the Board has been unable to identify any specific system of files maintained by or at the direction of the Archbishop containing DRG reports and relevant interview notes. The Archbishop told the Board that, in most instances, all that he received was

a single page report. Such reports were initially kept in files in his office. They were later passed on to the Professional Standards Committee, when it was formed.

142. A rapid and efficient early procurement by the Board of relevant documentary material from the Church proved impossible. It emerged that no truly disciplined administrative system of record keeping had ever been established in relation to complaints of sexual abuse or misconduct. It was difficult, and in some instances impossible, to trace certain correspondence and documents that had clearly existed, either in the hands of the Archbishop concerned or Church Office or Anglicare.
143. Remarkably, the file containing minutes, reports or other documentation created by the Diocesan Response Group (DRG) (such as had ever been raised) could not, initially, be found, when access to it was requested. Correspondence and documentation said to have been placed on a confidential file (colloquially referred to by a former member of the Church Office staff as the "X-File") could not be located.
144. On 9 December 2003 the Board was informed that various documents had then been located and were being assembled for its perusal. However, these appear, in a number of instances, to be collections of documents garnered from various sources, rather than original files created at the time of relevant events and readily extracted from the administrative system. Ultimately, some minutes of proceedings of the DRG and the so-called Critical Incidents Working Party (also referred to as the Critical Incidents Task Force) were produced to the Board. The Board is far from convinced that it has necessarily received all documentation related to the DRG raised by it from time to time.
145. It also emerged that no formal files had been opened and maintained by the Contact Person appointed when the DRG was brought into existence. All that were supplied to the Board were two manila folders containing (in the main) photocopies of a series of handwritten notes and some typed materials that were extremely difficult to construe and place in context.
146. Finally, the Board is constrained to comment that little was initially volunteered to it by way of documentary material. Only persistent requests for relevant documents seemingly produced any result, often after considerable time lapses. The Board was left with a very distinct impression that, at least initially, there was some degree of reluctance to make certain types of files available, in some cases due to perceived privacy considerations.

147. Moreover, despite the fact that the solicitors for the Church had conducted considerable research into its archives for documents relevant to current litigation, only persistent requests by the Board ultimately gave rise to access to that material, thereby obviating a need to carry out a totally parallel exercise at great cost, in both time and money terms.
148. In all fairness, it must be said that, following the recent appointment of Ms Anne Hywood as Executive Officer of Church Office, the bulk of the materials required by the Board were soon forthcoming.
149. The Board has dwelt on this aspect for two reasons. First, it illustrates the difficulties encountered and how they have impacted on the time taken to complete the Board's task. Second, and more importantly, it points up certain aspects of the serious deficiencies in administration that have existed and apparently led to a lack of desirable follow-through of some complaints and undue lapses of time in proper disposal of them, in various instances.
150. The Board makes the point that the establishment and maintenance of an effective and efficient filing and note forward system of receipt and processing of allegations of abuse or misconduct is critical to their proper and timely disposal. This is especially so when there is any changeover in responsible personnel. Further, the creation and preservation of proper files establishes a past historical record that could become very important in the event of repeat or similar problems.
151. It is also important in relation to any civil litigation that may be instituted against the Church or Church Bodies, in which discovery of documents is a mandatory and often expensive process.
152. Such a system needs to commence with the opening of a file on initial contact e.g. by communication with a Contact Person or, for example, the Archbishop or other member of the senior clergy. This should be followed by the placement on it of all subsequent documents or records of discussions and/or deliberations, so that the treatment of the matter from time to time is transparent. Such an approach is part and parcel of a proper system of administrative accountability. It is necessarily inherent in the Draft Protocol envisaged by the national Sexual Abuse Working Group made available to the Board.

Recommendation

The Board recommends that urgent attention be given to implementing administrative arrangements to ensure that proper and adequate files and records relating to all information received concerning possible sexual abuse or misconduct by a Church worker are established and maintained in each case, including the development of requisite pro forma documentation to support it.

153. One important point raised by Dr Sandercock was his concern that, except in the case of a matter disposed of by way of formal charge heard by the Diocesan Tribunal, there was no right of appeal in relation to any decision of the Archbishop. There was thus no ultimate accountability in relation to the disposal of the relevant complaint. He felt that this was an aspect that ought to be addressed in relation to any future administrative system. The Board considers that there is great force in the point made by him.
154. Bearing in mind the above matters, it will readily be seen that the DRG was, in reality, something of a toothless tiger. That conclusion is, of course, not intended as any reflection on the well-meaning and hard-working persons who constituted it and endeavoured to render its activities effective. It is a product of the ill-conceived concepts originally enshrined in the protocol constituting the DRG. At best, those processes that could be implemented were necessarily slow and cumbersome and involved a relatively large number of persons. Maintenance of confidentiality was inherently problematic.

The Brandenburg Scenario

155. The Board does not propose, in the course of this report, to analyse in detail the evidence touching on *all* of the allegations of sexual abuse brought to its attention. It would not be profitable to do so, particularly in relation to situations that were satisfactorily dealt with. Rather, the Board will primarily focus on the general conclusions to which it has come on the whole of the evidence and illustrate particular facets by reference to the evidence relating to specific situations.
156. However, it is desirable to direct attention, in some detail, to the circumstances related to Brandenburg in particular. This constitutes an important part of the relevant historical background and has been the subject of a large amount of evidence. It has given rise to particular considerations of general importance and significance.

157. The CEBS organisation was brought into being in the 1920s to cater for the perceived needs of boys and young men between the ages of 6 and 18 years. It was very much a missionary initiative of the then Church of England, designed to assist its members to develop physically, socially and spiritually.
158. Whilst CEBS was a national organisation, it primarily operated on a parish branch basis under the control of the parish priest. Its activities were led by leaders recruited by the local parish – who were often persons who had progressed up through the ranks of CEBS from a young age and been progressively trained for their roles.
159. The young males were organised into groups by age and wore a distinctive uniform. They met weekly and also participated in weekend or longer camping activities, principally at campsites maintained by the Church. From about 1963 they also participated in nationally organised camping activities. Whilst there was a strong spiritual flavour interwoven in them, the detailed activities engaged in had some similarity with those of the scouting movement.
160. By the 1950s, CEBS was a very large organisation, with branches in many parishes. It seems to have reached a peak in the early 1970s, but, by the early 1980s, for a variety of reasons, the membership had dwindled significantly.
161. Brandenburg was born in 1936. The evidence does not indicate when he first became involved in CEBS, but he himself asserted, at one point, that his association with it had extended well over 30 years. The present State Chairman of CEBS said that Brandenburg was “*larger than life*” in the CEBS movement by the time when the first national camp was held in 1963.
162. Certainly, as at 1981, he had occupied the full-time, salaried position of the CEBS Executive Officer for South Australia and had held an honorary office as Chief Commissioner, for a lengthy period. As Executive Officer he operated the CEBS shop. He was also national trading officer for uniforms and other items and held a position as leader training officer for the CEBS national body.
163. In April 1981 Brandenburg ceased to be a salaried employee of CEBS due, it was said at the time, to financial stringencies then being experienced by that organisation. The evidence indicates that, almost contemporaneously, he was deposed as Chief Commissioner at an

election.

164. This reflected the fact that there was a feeling that he was "tired" and had run his course in that role. Also he had incurred the displeasure of the hierarchy, in the then recent past, by overtly consuming alcohol and supplying it to young lads at a national camp, in breach of the camp rules. His conduct could have resulted in very serious consequences, having regard to the terms upon which the campsite was being used at the time.
165. Almost immediately after his salaried position with CEBS had been abolished, Brandenburg was taken on as an employee of, first, the Diocese and then what is now the Anglicare structure, a multifaceted body falling under the aegis of the Church. The evidence is not fully definitive as to his precise role within that organisation from time to time, but it indicates he had a particular responsibility for parish liaison, the operation and maintenance of various campsites in South Australia owned or controlled by the Anglican Church and fund raising in the final phase of his employment.
166. He was, at the same time, Executive Officer for the Camping Association. Despite the cessation of his role as CEBS Executive Officer, Brandenburg continued, until about the mid-1980s, as Branch Governor of the Magill Branch of CEBS. Thereafter he was involved in the running of a boy's club associated with the parish. He also continued to operate the CEBS shop until the late 1980s.
167. The evidence before the Board overwhelmingly establishes that, over many years, Brandenburg was guilty of serious and sustained sexual abuse of a staggering number of young members of CEBS. The Board took evidence from 20 of his victims in South Australia and 10 of their parents. It is aware that there were and were likely to have been many others. It is possible that his victims numbered in excess of 80 young lads.
168. It is apparent that Brandenburg was involved in sexual abuse together with what seems to have been a coterie of other senior persons within CEBS, both within South Australia and during interstate activities. Such was the scope of those activities, most of which involved serious criminal offending, that it seems well nigh incredible that his conduct did not apparently become known to persons in authority within either CEBS or the Church. For example, the present State Chairman of CEBS told the Board that he had known Brandenburg well since about 1963 and had never had reason to doubt him until the revelations of 1999.

169. The first formally recorded incident of apparent untoward conduct appears from a memorandum of a meeting held on 3 April 1995 between the then CEO of Anglicare, Brandenburg and his immediate manager. That meeting took place at the instance of the Archbishop, who had received a report from a priest that Brandenburg had been naked in a spa at his home with a ten-year old boy.
170. The meeting was convened as a formal interview at which Brandenburg was called upon to explain his conduct. Brandenburg did not deny the incident, but stated that it was of an innocent nature. He said that he was a friend of the family. The boy's father had recently died of cancer and Brandenburg was taking an interest in him as part of the parish support system.
171. The CEO accepted the explanation, but cautioned Brandenburg against any repetition of inappropriate conduct susceptible of misinterpretation. Brandenburg was warned of the likelihood of a mandated report if this occurred.
172. The evidence before the Board indicates that there had been at least two other reports of improper behaviour by Brandenburg prior to 1995.
173. The witness POI 2 gave evidence of a complaint by his parents to the effect that Brandenburg had improperly fondled boys on an interstate trip in about 1977/1978. This had led to a meeting chaired by POI 23, and attended by the parents at which Brandenburg had admitted the alleged conduct and had been reprimanded by POI 23, who was, himself, State Chairman of the CEBS movement at that point. It appears that nothing further was done at the time. Brandenburg thereafter continued a course of more serious abuse of POI 2 until about 1981. In fact that conduct had actually commenced prior to the meeting and was unknown to the parents of POI 2.
174. The witness POI 3 told the Board that he had been sexually assaulted by Brandenburg at the CEBS camp at Melrose in about 1966, a fact that he reported personally to POI 23 in June 1993. According to the evidence of this witness POI 23, an Archdeacon, scoffed at the complaint saying that he knew Brandenburg well and did not believe the complainant. According to POI 3 the Archdeacon commented that many people misinterpreted physical contact, to which the complainant rather bluntly responded "*It's hard to misinterpret a cock up your arse*".

175. It is said that POI 23 reluctantly agreed to carry out some investigation. After the complainant had pursued him several times by telephone about the matter, the Archdeacon eventually told him that everything had been sorted out. He then warned the complainant of legal action if he repeated the allegations.
176. The Board put all of these assertions to POI 23 in the course of his evidence. He professed no recollection of any of them. The Board is satisfied that the substance of the victim's evidence is accurate. The precise details of what he said and his description of the location of the Archdeacon's office at the time are such that the evidence had an inherent ring of truth. The victim was an impressive witness. There is no apparent reason why he would be able or likely to fabricate his detailed narrative of the circumstances related to the making of his complaint.
177. In May 1997 Geoff Blackwood (the then Human Relations Manager of Anglicare) and Robert Stocks (one of his subordinates) were requested to investigate safety issues at various campsites. This was, at least as to the urgency and timing of them, triggered by persistent assertions by the witness McGlennon (the caretaker at Harrogate) that serious Occupational Health and Safety issues needed to be addressed as a matter of urgency. The complaints culminated in McGlennon unilaterally closing the Harrogate campsite.
178. Curiously, certain of the documentation said to have been raised by Blackwood and Stocks cannot now be located, but it is possible to reconstruct the sequence of some of the relevant events by reference to documentation that is still extant.
179. Certain of the campsites were found to be in a parlous and dangerous condition. More significantly, it was reported by McGlennon that various activities involving Brandenburg in bringing one or more individual lads to the Harrogate campsite and, at times, staying overnight, coupled with his apparent association with a convicted paedophile as camp caterer, raised serious issues that invited investigation.
180. Both Blackwood and Stocks gave evidence before the Board. Despite the strong denigration of Blackwood by the present CEO of Anglicare, the Board assesses each as being an impressive witness. It has no hesitation in accepting the two men as witnesses of truth, although it is of the impression that Blackwood may be mistaken as to one aspect of his evidence relating to the relevant sequence of events.

181. The Board is unable to perceive any obvious motive for them to give other than truthful evidence on this topic. It is to be borne in mind that, in giving evidence, the then CEO of Anglicare at the relevant time characterised both of these men as reliable and responsible persons, although he said that Blackwood struggled somewhat with some aspects of his duties. He actually commended them in writing for the excellence of their work in investigating the campsite problems.
182. Both Blackwood and Stocks unequivocally state that, on 2 June 1997, they spoke with Brandenburg and put the caretaker's assertions to him. After a long pause, he denied any paedophilic activities and then made the rather odd statement "*I am sorry I make it so hard on you young guys.*"
183. The Board accepts that, at some time in June 1997 (probably on or about the 5th), Blackwood and Stocks completed *two* reports – one dealing with the condition of the campsites and the other dealing with the report of the caretaker concerning Brandenburg's conduct. These were delivered to the then CEO, although the latter report cannot now be found and the then CEO asserts that he did not receive any such report. Blackwood recommended both the dismissal of Brandenburg and, according to Stocks, also that there be further investigation of possible paedophilic activities by the police.
184. It is to be noted that this followed earlier attempts by McGlennon to see the CEO to voice both safety and moral concerns. Amazingly, the CEO refused to see him, saying that he should speak with Brandenburg – the very person about whom he wished to advance the complaints. This is said by McGlennon to have followed a refusal by Brandenburg's immediate manager, also to speak with McGlennon, although the latter has no present memory of such a situation. The then CEO professes to have no memory of the incident related by McGlennon.
185. (1) Shortly after the receipt of the Blackwood/Stocks report the CEO appointed Bill Hartwig, the Financial Controller, to manage the campsites. The latter physically visited them and, in the course of so doing, met and had discussions with McGlennon. Hartwig testified that, in such discussions, McGlennon re-iterated his concerns about Brandenburg coming to the Harrogate campsite with a young lad and sleeping together with him in the same hut. The Board understood Hartwig to say that this would have occurred no later than 22 July 1997, when he handed McGlennon a notice terminating the caretaking arrangement, following a decision to sell the campsite.

- (2) To paraphrase Hartwig's evidence, this sounded warning bells with him. He prepared a hand written memorandum expressing his concerns and gave it to Blackwood to pass on to the then CEO. Curiously, this memorandum also cannot now be found and the then CEO claims that he has no memory of seeing either it or the Blackwood/Stocks report on the same topic. In the course of his evidence before the Board the then CEO accepted that Blackwood did relay Hartwig's information to him, albeit orally.
- (3) According to the then CEO, he then asked Blackwood to check with McGlennon as to the precise details of the latter's allegation. The then CEO claims that Blackwood reported back that McGlennon merely expressed concern that, on at least one occasion, Brandenburg had visited Harrogate with a young man. However it was said that he was unable to produce any evidence of improper behaviour. Blackwood further said he had spoken with Brandenburg, who had denied any inappropriate activity.
- (4) This version of events is inconsistent with the evidence of Blackwood and Stocks and the Board frankly does not find it convincing.
- (5) The then CEO stated that the McGlennon allegations arose in the context of an acrimonious backpay claim and he considered them no more than innuendo. He says that he sought legal advice. This was to the effect that he was "*obligated to indicate to Brandenburg that there was no substance to the allegation, further that I was obliged to tell him who was making the allegation*". He was then to decide whether further investigation was warranted, on the basis of any responses given by Brandenburg.
- (6) To say the least, if it was given in those terms, the legal advice was unusual.
- (7) The then CEO asserts that, after the interview, he sought further legal advice in light of his conclusion that he was prepared to accept Brandenburg's denials. That advice was to the effect that he was justified in not taking the matter further. He then further interviewed Brandenburg and the memorandum now annexed to the earlier transcript of interview was signed. The Board has pursued this aspect of the evidence with the solicitor nominated by the then CEO, who has no memory whatsoever of being consulted as alleged and

states that he has never heard the name Brandenburg.

186. On 5 December 1997 a formal, taped interview was conducted between the then CEO and Brandenburg in the presence of Brandenburg's immediate manager and Blackwood. At that time inferences arising from the caretaker's assertions were put to Brandenburg. What occurred during the interview was, at the very least, unfortunate.
187. The interview of 5 December is to be considered in the context that both the CEO and the immediate manager were mandated reporters, yet no report was ever made by either of them, despite the previous incident in 1995. Both assert that the circumstances were such that their suspicions were not aroused.
188. (1) The interview commenced by the CEO virtually apologising for the fact that he felt obliged to put certain what he described as "*unsubstantiated*" allegations to Brandenburg. He then proceeded, at times, to even frame responses for the latter.
- (2) When it was put to Brandenburg that it had been asserted that, on a number of occasions, he had taken individual young boys to two separate campsites and that they were there unsupervised for lengthy periods, Brandenburg did not directly answer, although he referred to taking "*Paul the cleaner*" on one occasion. His responses were generally discursive and, to some extent, not directly responsive. The conversation then deflected to a scandal that had apparently erupted within the Camping Association Executive concerning the engagement by Brandenburg of a known paedophile and his wife as camp caterers. This seems to have been associated with then relatively recent publicity as to the paedophile's conviction.
- (3) In the course of the interview the CEO said to Brandenburg –

"Clearly the unsubstantiated allegations made against you are pointing to a belief or a suggestion that you have engaged in paedophile activities. As such I feel honour bound to directly ask you that question, I feel sorry but I have to do this."

- (4) This elicited a somewhat rambling response from Brandenburg about his past long involvement as a youth worker that was not really directly responsive. That reply prompted the following statement by the CEO –

"I heard in that answer a direct statement that no, while you have been a youth worker for many years you have not engaged in paedophile activities...."

(5) After some further exchanges the CEO said to Brandenburg –

“.....I should advise you that we have warned Mr McGlennon that his actions may be defamatory if he were to publish this information and we have asked him does he have any evidence to substantiate his allegations and he has replied that no [sic]. He has stated that he does not have any evidence to substantiate his allegations and so he has been warned then that it would be defamation were he to make them. However, as I said at the beginning, given the nature of this organisation, I just feel honour bound that I have to putallegations to you and get your response, as I said this is just an information gathering exercise.”

(6) Shortly afterwards, the CEO said to Brandenburg –

“okay – so in summary then I understand you to have said the following directly and indirectly:

1. That you have not attended the Harrogate campsite with individuals, young men, apart from your nephews and niece and then it was just to visit, look at the ostriches and they were your neighbours. You have not engaged in paedophile activities, or activities that could be construed as such. And you are no longer engaged in activities with youth any way in any official capacity, or unofficial.

The other question I have got to ask you directly is - there are allegations that you have attended Mylor campsite by yourself with young men. You responded about Harrogate you haven't specifically responded to Mylor.”

(7) It is fair to say that Brandenburg denied any inappropriate attendance at the Mylor campsite, although he did concede that he had taken a person called Paul there for cleaning purposes. He denied having been there with young boys or young girls unsupervised.

189. (1) The transcript of the interview with Brandenburg was attached to a memorandum explaining the circumstances that had given rise to it. *Inter alia*, that memorandum contained the following paragraph –

“Bob and Val McGlennon referred to in the transcript were the caretakers at Harrogate campsite. Bob and Val McGlennon made the allegations against Bob Brandenburg. Bob and Val McGlennon made these allegations whilst they were seeking back payment of wages against Anglicare. Anglicare disputes their claim but reached a confidential settlement with him. During negotiations he made a series of allegations against Bob Brandenburg suggesting they believed he engaged in paedophile activity though they could not substantiate this claim. This was set aside as a separate issue to negotiations. They were warned that if they could not substantiate allegations they may be open to defamation claims.”

(2) This memorandum implies that there must have been some interaction between senior officers of Anglicare and the McGlennons following the Blackwood/Stocks report and prior to the interview with Brandenburg. It may explain the considerable time lapse from the initial report prepared by Blackwood and Stocks. It contains a clear indication that the McGlennons had reiterated suggestions of paedophilic activity in the plainest terms.

- (3) There is no other reasonable construction that can be placed upon the documentation. There is no doubt that McGlennon did hold and express serious concerns related to Brandenburg's conduct. Such was his concern and degree of upset that he was not being listened to that he and his then partner prepared a detailed memorandum of their observations dated 3 November 1997 and lodged it with their solicitor to protect themselves.
190. (1) The Board has dwelt upon this interview at some length both because it forms portion of the important narrative events related to Brandenburg and also for the reason that it illustrates the highly unsatisfactory approach that was adopted to the "*investigation*" of what were serious allegations against him.
- (2) As to this these points are of importance –
- (a) A perusal of the relevant transcript reveals that the then CEO did not conduct what could fairly be regarded as a proper, investigative interview. He appears to have approached the task with a closed mind as to any possible guilt on the part of Brandenburg. The manner in which he expressed himself virtually invited negative responses by Brandenburg.
- (b) Given the somewhat rambling responses of Brandenburg and his obvious failure, at times, to give answers that were directly responsive to questions asked, the CEO in large measure simply placed words in his mouth.
- (c) The allegations made were of such a degree of seriousness that they ought, inevitably, to have given rise to a mandated report to the appropriate authorities. Not only was no such report made, but if it had been made thereafter, any police investigation would have been irretrievably impaired.
- (d) Even worse, it is obvious that the CEO's failure to keep an open mind at the outset clearly led him to make statements to the McGlennons that would have led to serious prejudice of any police investigations by instilling in them a fear of possible adverse civil repercussions if they spoke freely.
191. It must be said in the plainest terms that what occurred at the time was a gross process failure. Had the matter been properly handled by an

immediate mandated report the real truth concerning Brandenburg's predatory activities may well have been revealed at a much earlier time.

192. Blackwood gave evidence to the Board that, during what must have been the period between the 1995 incident and the written report tendered by him in 1997, he had conversations both with the then CEO and other senior officers of Anglicare. On a number of occasions he expressed his concern at the fact that Brandenburg always seemed to have young lads with him and, on occasion, inappropriately took them into the Cathedral Hotel. This inevitably elicited a response that it was part of Brandenburg's work to relate to young people. The then CEO denies participation in any discussion of the above type.
193. The Board was informed that Brandenburg retired from his employment with Anglicare with effect from 31 July 1998. The then CEO concedes that "*just before*" that date, he received a telephone call from the Bishop of Tasmania, who told him that Brandenburg's name was in the Burnie newspaper; and that there were allegations of him being involved in paedophile activity. A copy of the report was faxed to the then CEO and he says he confronted Brandenburg with it. Brandenburg denied any wrongdoing.
194. The then CEO testified that he told Brandenburg that it was a serious matter and that he would be the subject of a police investigation. The then CEO further said that, upon receipt of the telephone call from Bishop Newell, he telephoned the Archbishop and informed him of the situation. The CEO certainly took no action locally beyond speaking with Brandenburg and cannot now clearly recall what may have been said to him by the Archbishop. The Archbishop told the Board that he has no memory of any such telephone conversation with the CEO. It is plain that the receipt of this information did not trigger any local investigative action at all.
195. On Easter Monday 1999 POI 4 informed Rev Owers that he had been sexually abused by Brandenburg between about 1989 and 1991, a situation that he had then recently reported to the police. Rev Owers told the Board that he immediately telephoned the Archbishop, briefly informed him of the situation and made an appointment to see him on the following day. For the sake of brevity and with no disrespect intended Rev Owers will hereafter be referred to simply as "Owers".
196. Owers says that, when he told the Archbishop that the perpetrator of the offence was Brandenburg, the former responded by saying "*His name*

again.” Upon Owers querying the reason for that comment, the Archbishop made reference to a report in Tasmania prepared in 1998. A perusal of the report discloses that Brandenburg’s name does not appear in it. Archdeacon Peter Stuart, then occupying a post in the Diocese of Tasmania, gave evidence to the effect that Brandenburg’s name was also not referred to in a separate coded list of names forwarded with the report. The Archbishop now says that it may well be that, if he made any such remark to Owers, he was confusing the Tasmanian report with the 1995 spa incident to which separate reference has been made.

197. On 2 July 1998 an article appeared in the Hobart Mercury reporting the issue of a Writ on behalf of a victim of sexual abuse against the Anglican Church, Archdeacon Lou Daniels and Brandenburg. The Bishop of Tasmania wrote to the Archbishop in Adelaide the same day advising him of that development.
198. Bishop Stuart Smith, who became the Administrator of the Diocese of Adelaide on 3 July when the Archbishop left for the Lambeth Conference in England, has no memory of seeing it. Equally, Bishop Aspinall, who departed for the Conference a little later than the Archbishop, says that he was unaware of it and knew nothing of assertions against Brandenburg until about the time the latter was arrested in 1999. The Archbishop denies ever having seen any letter written to him by the Bishop of Tasmania. It remains a mystery as to what happened to the letter.
199. It is to be noted that Bishop Aspinall had arrived from Hobart and was consecrated as a Bishop in Adelaide on 29 June 1998. He, too, attended the Lambeth Conference. Bishop Aspinall contends that, although he, the Archbishop and Bishop Newell all attended the conference, the then recent developments in Tasmania were never mentioned. The Archbishop stated to the Board that the topics of Brandenburg and the Tasmanian litigation were not discussed by him with either Bishop Newell or Bishop Aspinall at the conference.
200. Following the police report by POI 4, Brandenburg was arrested, interviewed, charged with various sexual offences and released on bail. As earlier recited, he died on the day on which he was due to appear before the court in relation to the charges against him.

The Church Response to Brandenburg’s Death and Events Subsequent to it

201. (1) At the time of Brandenburg’s death the Reverend Don Owers had

been the rector of the Magill Parish for a considerable number of years. As a result of the police investigations he rapidly became aware of the fact that there were a number of persons other than POI 4 who had been members of the Magill branch of CEBS and were said also to have been victims of Brandenburg. He decided to publicise to his congregation his intention of conducting a series of workshops for the survivors of sexual abuse. He communicated that intention to the Assistant Bishop, Bishop Aspinall.

- (2) In a letter written to Bishop Aspinall on 8 July 1999 he made the point that, because it was not known who or how many people may have been affected by Brandenburg's conduct, the Church had an obligation to be pro-active in helping people to access pastoral care, should they wish to do so. He urged that the Church either make a press release or place a paid advertisement inviting people who may have suffered abuse to contact the liaison person.
202. Owers in fact conducted a workshop on 24 August. On 7 September 1999 he advised the Archbishop of his intention to hold a further workshop on 26 October. At that time he informed the Archbishop and the CEO of Anglicare that he had been informed by the police that there may well have been in excess of 30 victims of Brandenburg's sexual abuse. He also advised the Archbishop that, according to survivor statements, abuse by Brandenburg *and others* had taken place in at least one other CEBS branch, at Diocesan campsites and in at least one other Diocese.
203. It is clear from the content of a letter written by Owers to the Archbishop on 28 July 1999 that the latter had expressed a reluctance to make any press release to the secular media. In his letter Owers urged the Archbishop to reconsider his attitude, so as to avoid running the danger of further isolating victims, demonstrate a transparency on the part of the Church and set in train the provision of pastoral care where it was needed. It is clear from the evidence of Archbishop Aspinall that he supported Owers' position that a media release should have been prepared. However the Archbishop was opposed to such a strategy.
204. The material before the Board indicates that various exchanges occurred between Owers and the Archbishop in August, September and October. The precise details of these are not clear. It seems that, at some time during this period, the Archbishop formed an ad hoc committee consisting of himself, the Assistant Bishop, the CEO of Anglicare and a lawyer to consider what action ought to be taken by the Church.

205. Correspondence reveals that Owers was requested to postpone his proposed second seminar until decisions were taken following the committee deliberations. Owers gave evidence to the effect that both the Archbishop and the lawyer requested that the second seminar not be proceeded with as planned, “*so as to allow for Diocesan management of the situation and to minimise the risk of any inadvertent breach of insurance requirements.*”
206. In writing to the Archbishop on 26 October 1999 (and apparently at his request) Owers forwarded the former a memorandum setting out suggested pastoral responses to the Brandenburg situation. The initiatives proposed included a formal public acknowledgement of the harm done; the establishment of a scheme of pastoral care of individuals, families and parishes affected; the provision of training as to mandatory reporting; the adoption and dissemination of regulations and guidelines concerning the duty of care of Parishes and Church Organisations (similar to that which had been produced by the Baptist Church in 1998); and a continued investigation of the extent of abuse that had occurred at the hands of Brandenburg.
207. (1) In the opinion of the Board the initiatives suggested by Owers in his memorandum were eminently reasonable and appropriate to the situation. However, there was no immediate response from either the Archbishop or Assistant Bishop to the memorandum.
- (2) On 7 December 1999, in response to a query from him, the Assistant Bishop sent an e-mail to Owers indicating that the memorandum had been considered at a meeting held on 15 November 1999 and that a further meeting had been held with the Diocesan insurance broker and PR consultant.
- (3) Owers was informed that the Archbishop would be prepared to attend some form of meeting in the Magill Parish to make a statement “*acknowledging the facts of the particular case in view and expressing the pastoral support of the Church to all who have been affected.*”
- (4) It was further said that the Diocesan contact person and the DRG could respond to the needs of individuals and families as they arose; and that further seminars and workshops appropriate to particular places might be beneficial, although care needed to be taken not to promote claims that may have the unintended effect of invalidating any Diocesan insurance cover.

208. (1) The Assistant Bishop also indicated that mandatory reporting training was not then required except in relation to certain types of person, although a working group was engaged in producing a code of practice for the protection of children in Churches. His e-mail indicated that it was not proposed to conduct any inquiry as suggested by Owers.
- (2) It was proposed that the Church simply respond to other information coming to light from time to time if further allegations of abuse were made.
- (3) Not unsurprisingly this response did not satisfy Owers. On 10 December 1999 he wrote to the Assistant Bishop asserting that the responses in the last mentioned e-mail were “*frustratingly vague and inconclusive*”. He again urged positive action along the lines that he had previously recommended and raised three specific questions, namely –
- (a) Whether written guidelines on the range of pastoral action available could be obtained from the Church insurers;
- (b) What concrete steps were proposed to attempt to provide pastoral care and healing for those that had been harmed and their families and when those proposals would be implemented; and
- (c) Whether the Brandenburg situation had been discussed at Diocesan Council and, if so, what was proposed by the Council.
- (4) The Board notes that, even by that time, the Diocesan Council had not been informed of the Brandenburg situation, although the Archbishop asserts that many members of it must have been informally aware of what had occurred.
209. (1) Owers did not receive any response to his letter. On 7 March 1999 he arranged for one of the Brandenburg victims to meet the Archbishop and describe to the latter what had happened to him.
- (2) This victim gave evidence before the Board. He says that he gave full information as to what happened to him and concerning the so-called “*trophy*” board of photographs at the Brandenburg house that suggested that abuse had been widespread.

- (3) From the perspective of the witness the attitude of the Archbishop seemed to be quite impassive and noncommittal. It was said that he made various notes in his diary during the interview and simply concluded it with a statement to the effect “*Thank you for sharing this with me*”. The victim expressed the view that the experience was like talking to a lawyer rather than an Archbishop.
- (4) It was Owers’ memory that the Archbishop did apologise to the victim on behalf of the Church and ask whether there was anything that he could do for him.
210. Owers, being dissatisfied with a seeming lack of action, again wrote to the Archbishop on 13 March 2000 urging a more proactive response from the Church. This provoked a reply dated 27 March 2000 that, *inter alia*, inferred that Owers’ views were being coloured by a personal interest in the matter. The reply referred to the inability of the Church to gain access to Brandenburg’s record of interview by the police, the lack of a positive coroner’s finding, and the fact that a good deal of effort had been put into updating Church procedures for reporting and encouraging victims of sexual abuse to come forward. It also discussed a proposal by Owers concerning a motion to be moved at the then forthcoming Synod.
211. The last mentioned proposed motion was a strategy by Owers to attempt to bring the issues arising from the Brandenburg situation before the full Synod and to stimulate discussion of them. The Synod met in May 2000. Following negotiations between Owers and the Church hierarchy he agreed not to proceed with his motion on condition that the Archbishop raised the matter in his address to Synod.
212. The Archbishop addressed this topic in the course of his report to Synod and actually referred to his interview with one of the victims. He condemned the abuse that had occurred, expressed deep sorrow at its occurrence, and encouraged any person who had been a victim within a Church context to contact the helpline that had been established.
213. He described the processes available through the DRG and reported that the original guidelines for dealing with complaints against clergy had been extended to cover lay employees and volunteers. Reference was also made to the development of a code of practice for the protection of children in the life of the Church. Mention was made of the holding of a clergy conference devoted to addressing matters of professional conduct.

214. (1) It is fair to say that Owers remained dissatisfied with the response of the Church to the Brandenburg situation. His concern was that there had not been a sufficient public acknowledgement of the extent (or possible extent) of the harm done by Brandenburg and others and that there had not been any effective attempt to investigate that extent either in South Australia or elsewhere.
- (2) On 6 September 2000 he wrote to the Archbishop proposing that the ad hoc group that had been constituted in October 1999 further assemble “*to review action taken so far and to set directions for future initiatives.*” This was agreed to and a meeting was held on 5 December 2000. It was attended not only by the original group but also an insurance representative, and Geoff Skein and Chris Martin from CEBS.
215. (1) According to contemporaneous notes taken by Owers, Skein, the then Chair of CEBS, reported that Brandenburg had been replaced as Chief Commissioner following certain incidents at the Cockatoo Valley national camp involving the consumption of alcohol by Brandenburg and that Conrad Patterson, the then Chair of CEBS, had been a prime mover in the expulsion. It was said that Bishop Aspinall had been present at the camp.
- (2) The notes reveal that, when asked whether there had been suspicions within CEBS concerning misconduct by persons other than Brandenburg, Skein was said to have replied to the effect that, in 1982 or 1983 two leaders at Ascot Park had been mentioned. (The Board notes that the names of those two persons arose on a number of occasions in the course of the evidence given before it.)
216. The evidence suggests to the Board that the outcome of the meeting of 5 December 2000 was inconclusive. There was clearly some dialogue between Owers and Bishop Aspinall early in 2001 with regard to the discovery by the former of the fact that Archdeacon Daniels in Tasmania (who had been convicted and sentenced to a term of imprisonment for sexual abuse) had been a close associate of Brandenburg within the CEBS movement and had also been a close professional associate of Bishop Aspinall.
217. In December 2001, following the award of a large sum of damages against the Anglican Church in Queensland in favour of the victim of sexual abuse, Owers again catalysed a meeting with the Bishops. He once more expressed concern that the Church had not been sufficiently proactive in

its care of people who had suffered sexual abuse and that, in light of the Brisbane judgment, the way in which churches had characteristically handled these matters had been shown to be poor risk management and disastrous for the credibility and witness of the Church.

218. (1) Early in the following year the media furore concerning the Governor-General prompted the Archbishop to issue the media release previously recited.
- (2) On 21 March 2002 Owers wrote to the Archbishop reiterating the proposed initiatives that he had put forward in 1999 and expressed the view that it was urgent that positive steps be taken to ascertain and communicate with those who had been subject to abuse at the hands of Brandenburg and take positive action to assist them.
- (3) This was responded to by Archdeacon Conrad Patterson who stated that a draft letter to parishes and former CEBS had been prepared and was under consideration by the Archbishop. In an e-mail communicating that information the Archdeacon stated that the matter had been discussed at the annual general meeting of CEBS on the previous Monday and had the full support of the CEBS State Council.
- (4) In the event, the Board has been unable to establish whether such a letter was ever sent out. Indeed, it is fair to say that, until the present inquiry was mounted, the Church did not ever embark upon an in-depth investigation into the nature and extent of the predatory activities of Brandenburg. As has been demonstrated, it was even reluctant to encourage Owers to proceed with the initiatives that he himself desired to pursue. The Rev Andrew King also spoke of what he perceived to be a most unsatisfactory meeting that he had with what appears to have been an ad hoc committee in about July 2002 before which POI 23 was requested to attend. The Archbishop made the points before the Board that, initially, inquiries made at his direction had failed to identify that there were further victims other than the two already known to have been sexually abused and that the attitude of the Church insurer had necessarily imposed clear restraints upon actively seeking out possible victims.
- (5) Bishop Aspinall testified that, over a substantial period of time, he endeavoured to persuade the Archbishop both to make a public statement concerning the Brandenburg situation and also convey a proper Inquiry of the nature of that held in Tasmania. He

commented that the Archbishop was implacably opposed to both propositions. In the last mentioned regard the Archbishop gave evidence before the Board to the effect that, so far as he had been able to ascertain, the Tasmanian inquiry had failed to produce any really productive end result and had given rise to considerable expenditure with no real benefit. This had coloured his thinking at the time.

219. Owers continued to press for what he conceived to be appropriate positive action, but was dissatisfied with the Church response and what he considered to be inadequate action on the part of the DRG and the SATG formed in mid 2002. It was against the background of such a situation that the present Board of Inquiry was eventually established.

Issues Arising from the Evidence

220. It is convenient to discuss the issues that arise from the evidence successively in respect of two broad timeframes, namely, the period prior to the conviction of POI 1 and the period subsequent to that time up to Synod 2003.

Period pre conviction of POI 1

221. As earlier appears, this was a period in which there were no formal processes in place for the receipt, subsequent investigation and dealing with complaints of sexual abuse, either by members of the clergy or other Church workers. Any such complaints were received by various members of the clergy or other appropriate officers and handled as those persons saw fit in the circumstances.
222. Leaving aside the material related to Brandenburg, the Board received evidence concerning a substantial number of complaints of sexual abuse that occurred during this period and the responses of the Church and its senior officers to them. The general tenor of that evidence was to a common effect.
223. The Board considers that, in large measure, what was said by the Honourable Justice J.R.T. Wood in the “*Final Report of the Royal Commission into the NSW Police Service, Vol 5 (The Paedophile Inquiry)*”, August 1997, was, in conceptual terms, equally descriptive of what occurred in the Diocese of Adelaide.

224. The evidence compellingly portrays a general prevailing culture of minimisation or actual disbelief and, in most instances, a somewhat aggressive rejection of assertions of misconduct on the part of members of the clergy, especially when made by persons of a young age. To paraphrase the language of Wood J, the reaction of those to whom reports or complaints were made was, as in New South Wales, the obvious product of fear – fear for the good name of the Church, fear of the victim and of the emotional and financial demands that might be made, fear for the financial assets of the Diocese, and perhaps fear, in some instances, of how many other cases might be there to be uncovered.
225. It must be said that, in many (if not most) instances, the attitude of the Church was, in its practical effect, both uncaring towards the victims and, at times undermining of the characters of the victims and of their families. The primary focus was on the Church and any likely effect upon it or, where relevant, its priests. There was a clear reluctance to overtly acknowledge the reality of situations and implement steps to repair harm occasioned to victims, due, the Board considers, to a fear of besmirching the reputation of the institution and the consequences of possible civil litigation. In particular, there may well have been concern as to the possibility that an offer of assistance might be regarded as an admission of liability.
226. The potential possibility of the involvement of the police, at the instance of the Church, was, seemingly, abhorrent. There was also, in some cases, a curious focus on extending compassion and forgiveness towards an offending cleric, almost to the total exclusion of proper consideration of the situation and needs of a victim. At times victims were cautioned against articulating their complaints by scarcely veiled threats of possible civil action against them for defamation.
227. It is inappropriate, in the course of what is, necessarily, a lengthy report, for the Board to plumb all of the evidentiary material related to this period to the depths. Typical illustrations of some of key points made will suffice.
228. (1) *Complaint against POI 5*
- Complaints were made to both the relevant Archdeacon and the then Bishop of serious sexual assaults on two young boys by a priest in a country parish then within the Diocese of Adelaide. These claims were supported both by reputable persons in the community and also the Church council itself. The complainants were met with almost angry rejection at both levels. The persons presenting them were accused of causing a potential schism within the Church and told “*to go back and pray harder.*”

Being dissatisfied, those concerned then complained direct to the police. In the result the priest was tried before a jury on three counts of indecent assault, found guilty and required to serve a term of six months' imprisonment.

A remarkable feature of this matter was that, although the priest's licence was revoked following the outcome of the trial, he was, not very long after his release from prison, progressively re-licensed for various activities in the Adelaide suburban area. He was ultimately appointed as a curate or priest in charge in a northern suburb.

It appears that, in recent times, he has admitted to frequent incidents of sexual abuse of children whilst associated with the suburban Churches concerned, after his release.

It also now emerges that the relevant Church records indicate that POI 5 suddenly departed from his then incumbency in that area long before the events above described (in about December 1984), following allegations of sexual assault on young man in his parish. There does not appear to have been any police report made concerning this. POI 5 took up an appointment in another State.

(2) *Complaint against POI 1*

Complaints were made by the parents concerned that the priest in charge of an Adelaide Hills Church had been guilty of acts of attempted gross indecency towards two children. The matter was initially raised with the assistant curate who, in turn, reported the situation to the Archbishop. The Archbishop assumed control of the matter personally and, *inter alia*, interviewed one of the mothers.

The perception of the mother concerned, after that interview, was that the Archbishop sought to minimise the situation. He asked her whether she had been sexually abused as a child, suggested that she was supersensitive, and commented that, as the father of the child had not attended the interview, he could not have been very concerned.

The mother contends that, in a later telephone conversation, the Archbishop told the mother that POI 1 had "*just been trying to be one of the boys*". He said "*I don't think you will have a problem again, its handled.*" The parents of the boys concerned were not satisfied and the matter was then reported direct to the police. The Archbishop denies that he made any such statements.

POI 1 was subsequently charged and convicted of two counts of attempted gross indecency by a jury, although the process dragged out over a very long period of time. During that time POI 1 remained in office and the parents and their families were ostracised in the local Church community at his instance. POI 1 was eventually convicted on both counts and sentenced to 12 months' imprisonment on each, the two sentences to be served concurrently. The sentences were suspended upon entry into a bond to be of good behaviour.

According to one of them the Parish Church Wardens were summoned by the Archbishop to an early morning meeting at Bishop's Court shortly after the arrest of POI 1. It was the perception of the warden that the Archbishop took the stance that it was virtually their fault that the situation had arisen. They should have been aware of what was happening. He instructed them to look after POI 1 and his family, to make sure that the family unit continued to function cohesively. They were instructed to support POI 1 in his Court attendances.

The archdeacon concerned was present throughout the court proceedings, representing the Church. It is asserted by them that no support was offered to the victims or their families, although the Archbishop told the Board that this task had been assigned to the Assistant Curate of the Parish. The Archbishop and the Assistant Bishop attended meetings in the parish on a number of occasions by way of support to it.

As it subsequently transpired this was yet another case of a priest with a past history. The police informed the Archbishop, at about the time of the conclusion of the trial of POI 1, that,

some years earlier, he had committed very serious sexual assaults on a young lad who attended his Church in a northern suburb. He had left that Church to take up an appointment in another State in about January 1975.

(3) *Complaint against POI 6*

Over a period of time, a brother of a Church order grossly and continuously sexually abused a series of young, homeless lads coming for refuge to a city shelter maintained by the Church. When a Chaplain working at the Church complex sought to draw the attention of the priest in charge of the parish to persistent general suggestions that abuse was occurring in the shelter at the hands of POI 6, he was dismissive.

Despite other evidence that obviously begged questions and his own, now admitted, concerns at the strange comings and goings of an associate of POI 6 who was a brother of the same religious order, the priest in charge persisted in an attitude of apparent wilful blindness.

The offender was ultimately sent to the United Kingdom to another post, immediately following an incident at the shelter in which he was assaulted by a young lad with a brick. The Board infers that the assault was plainly the product of an attempted sexual abuse of the lad. His departure also followed a situation in which some of his victims produced a tape-recording of what occurred during the incident of sexual abuse and took it to FAYS or its predecessor. The Department was dismissive.

The offender was permitted to return to Adelaide some two years later and was then licensed in various capacities, both in the Diocese of Willochra and the Diocese of Adelaide. The Board understands that criminal proceedings may be launched against the offender in the near future. At the insistence of the Archbishop the offender surrendered his holy orders as a deacon in mid-December 2002.

(4) *Complaint by POI 7*

A young girl in the care of the Church, assisting a parish priest in sacristan type duties in a country parish then within the Diocese of Adelaide, was raped by the priest and rendered pregnant, subsequently giving birth to twins.

When she found that she was pregnant the victim reported the matter to another priest. She was instructed by that priest to never tell anyone. The offending priest was sent to St Michael's House for a month and the girl was more or less left to fend for herself. Some minimal support was given to her by a senior priest and his wife in another parish, at and after the time of the birth of the children.

The matter was not reported to the police and no criminal action was ever taken against the offender, despite the fact that the rape was never in question. The Church has, in more recent times, given the victim some support.

(5) *Complaint by POI 8*

The complainant was the victim of a serious sexual assault by a senior priest, whilst she was resident in the Diocese of Willochra. She moved to Adelaide immediately after the incident and consulted a priest in the parish to which she came. He actively discouraged her from pursuing the matter, saying that she had no independent evidence to corroborate her story. In recent times there has been recognition of her complaint by the present Bishop of Willochra. The matter is now being investigated at his insistence.

(6) *Complaint by POI 2*

This was a classic case of inappropriate minimisation. The Board has earlier recited the incident in which, young lads, were improperly fondled by Brandenburg in a manner amounting to sexual abuse, in the course of an interstate bus trip in about 1977/1978. When

the parents made a formal complaint, POI 23 convened a meeting at his then Church to discuss the matter. This was attended by the victim's father, the victim's priest, Brandenburg and another lay person associated with CEBS.

The Board is satisfied that, at the meeting, Brandenburg admitted that he had, in fact, been "*playing*" with several boys.

It is fair to say that, on the evidence of the father, it appeared to him that POI 23 treated the situation as relatively trivial. The Board accepts that the latter said something to the effect "*Look he's been a naughty boy*" and "*Bob, you won't do this again, will you?*" Brandenburg said that he wouldn't do it again. He stated that he realised that he had been stupid. POI 23 then said, "*If you do it again, you will lose your job.*"

As a matter of fact, following the meeting, Brandenburg committed a series of much worse forms of sexual abuse on POI 2, over a substantial period of time.

It is to be noted that, at the meeting, the father attempted to raise the topic of similar conduct on the part of another CEBS leader POI 11. When he did so POI 23 was instantly dismissive and said that the meeting had not been called for that purpose. The allegations ought not to be made, he said, against POI 11 in the absence of the latter. There was no follow-up by POI 23 of the allegations in relation to POI 11.

(7) *Complaint by POI 17*

This complainant attended the CEBS group at a suburban parish as a young lad in the 1970s. One of the parents overheard the complainant and another young lad speaking about how a CEBS leader (POI 18) had been touching boys in a manner constituting sexual abuse, during a sleep over that had then recently been held in the Church hall.

The parent in question, who gave evidence to the Board, went to the Church and spoke to the priest in charge. When she told him what had occurred he virtually ejected her from the Church for speaking "*about things like that which should not be spoken about in Church*". She does not now remember the name of the priest as she was not a parishioner of the Church in question.

This witness said that she was told by the priest not to make any fuss because "*this lad was the son of well-known parishioners and was training to be a school teacher*".

The witness and the father of the complainant were very upset at the reception that she had received and made an appointment to immediately see the Bishop at Church Office, "on a personal matter". They gained the distinct impression, very early in the interview, that the parish priest had probably already spoken to the Bishop about the matter.

After hearing what they had to say the Bishop said that the parents were wrong. "*This could not happen as the young man accused was the Church youth leader and came from an upstanding family.*" Upon the female witness saying that her family was also an upstanding family and that she was not going to have her child molested, the Bishop told them that they were not to make trouble for this man "*as he was a trainee school teacher.*" When the parents asked the Bishop what he was going to do about the complaint he said that there was nothing to be done about it, it was all in their imagination. There was an angry exchange of words, following which the two parents left.

The Bishop concerned is now deceased.

It is the memory of the parents that they called into what was then the Unley police station and reported the abuse. They were asked to take the boys in question back to the police station to make a statement. Their memory is that this occurred. However, the written records of the police station have long since been destroyed, although the parents were informed that police records would have been transferred to microfiche. At the stage at which POI 17 gave evidence a relevant record had not been located.

At the time the parents did not follow up the matter further, because the police informed them that they would be interviewing the alleged offender and that, if he admitted the abuse, the boys would not be called upon to give evidence. They assumed that this must have occurred. This was particularly so because, on the Saturday morning following the complaints to the Bishop, the alleged offender came to the house and awakened the father of the complainant, who had been on night shift. The alleged offender introduced himself and appeared very agitated. He asked the father not to tell his parents what he had been doing and he kept apologising. He spoke in terms that represented an admission that he had been guilty of the abuse alleged.

The father told him that it was too late. The matter had been reported to the police. The offender then broke down and promised that he would not do it again. He was told to leave the property. He did so.

The Board has recently been informed that the police record of the report has been located. This reveals that POI 18 was charged with an offence in July 1974 and placed on a good behaviour bond.

(8) Complaint by POI 22

A young girl, who was declared a ward of the State because of the domestic circumstances of her natural mother, was placed in an institution established and operated by the Church. She and a substantial number of other girls were under the control of a husband and wife (POI 20, POI 19) who had been appointed in charge of the institution. The young girl was sent to the foster home of POI 21 for some weeks over the school holiday period in December, January and February. Whilst there she was, repeatedly, sexually abused by POI 21.

After returning to the institution she complained to POI 19 of what had occurred. POI 19 told her to “*Shut up*”, “*It didn’t happen*”. She was instructed not to bring the topic up again.

Some years later she also complained to the Anglican priest who had both been priest in the local parish in which the institution was located and had subsequently been appointed her legal guardian. He took no action.

Period Post Conviction POI 1

229. Whilst the situation relating to POI 1 obviously signalled a need to develop some formal protocols for dealing with complaints in relation to the clergy, it must be remembered that, at that point, the spectre of the Brandenburg scenario had yet to emerge. The alarm bells had not then really commenced to ring.
230. Although a perception had developed within the Church hierarchy that there was a need to deal with situations such as that arising in relation to POI 1 in a much better fashion, the evidence indicates to the Board that, initially, the principal emphasis was towards “*managing*” such situations in the best interests of the Church.
231. An analysis of specific scenarios that developed thereafter strongly indicates that much of the previous culture still remained. A classic illustration of that arises from the attitudes of both POI 23 and the CEO of Anglicare, as evidenced by their respective treatments of the various

complaints against Brandenburg over time, earlier recited.

Yet another example is to be found in the case of POI 12:

This person was a young lad who was one of three children of a single mother. The family moved to a country parish for a time in about 1990. The priest at the Church attended by them (POI 13) was, as it later transpired, a homosexual. He ingratiated himself to the family over time. When the family later returned to Adelaide and became established communicants of a suburban parish, the mother assisted POI 13 to obtain a short term post as a Youth Worker, attached to the Church. He continued his close association with the family and spent considerable time with the lad POI 12. He either introduced him to, or at least encouraged him to use, cannabis at the age of 14 or 15. By the age of 16 the lad was smoking cannabis heavily and also commenced to drink alcohol shortly thereafter.

POI 13 was subsequently appointed to a parish in the northern suburbs, but maintained a close contact with the family and the lad in particular. When the lad was about 17 and addicted to both cannabis and alcohol, POI 13 offered to take him to live with him at his presbytery. By the time the lad was 18 POI 13 had seduced him into a homosexual relationship with him. He also later involved him in homosexual activities with another member of the Order to which he belonged [POI 6] and also a person who was a novice of that Order. At one stage POI 6 also actually came to live at the presbytery for a time.

It is the view of the Board that the evidence related to this scenario patently revealed a gross breach of trust by POI 13 in relation to a vulnerable young lad, who was, at the time, having serious personal difficulties. Some of these were the product of the earlier conduct of the former in relation to the use of cannabis. This is so even if it can be said that, by the age of 18, the lad had attained the age of consent.

The mother first spoke to the CEO of Anglicare (who died not long afterwards) about her concerns and, also the senior priest of the Order to which POI 13 belonged. As it happened, that senior priest (POI 14) was the priest in charge of the Church at which the mother then worshipped. When she approached him he was quite dismissive, saying that, as the lad had attained 18 years of age, he could do what he liked. He further commented that the lad would not appreciate an interfering mother!

At a later point in time (in about 1999), the mother attended a council meeting at the Church at which the Archbishop was present. He made mention to POI 14, in the presence of the mother, that he understood that POI 13 had a lad living with him, or words to that effect. The mother immediately responded that the lad was actually her son. She asked what could be done about it. The Archbishop responded "*Leave it to me*". The mother heard nothing further.

The Archbishop gave evidence to the effect that he subsequently spoke with POI 13 who denied that there was any improper relationship with the lad and that the lad was not living with him. Not long afterwards POI 13 left to take up an appointment in England. The Archbishop saw no point in taking the matter further following the denial and then the departure for overseas.

232. There was certainly a steadily heightened awareness of the potential for civil claims that inevitably led to a situation in which executive thinking was very much influenced by considerations of insurance and budgetary repercussions, arising from a too ready public acknowledgement of responsibility and affording of ready assistance to victims. The evidence before the Board indicates the prophetic accuracy of what was said by Wood J. in his 1997 report.

233. He there stressed that a defensive response by churches risked doing more damage to the institution than the relevant abuse itself, particularly in the light of what has been a steady public awakening to the problem. As he put it, it has never been appropriate for any church to place its reputation ahead of its responsibility to the community.
234. Unfortunately, the evidence before the Board strongly suggests that what has occurred has seriously sullied the reputation of the Church in the eyes of the community. In the result, there is a great deal “*fence mending*” to be done, to positively improve the image of the Church and change the perception of those who have been disillusioned by past events.
235. In the earlier portion of this report the Board has summarised the salient features of the historical sequence of events that occurred post 1992. In so doing it has already rehearsed the factual events related to the Brandenburg scenario in some detail. In the course of sittings the Board also received a substantial volume of evidentiary material related to a variety of discrete situations that developed both within the Church proper and also other Church bodies.
236. The Board does not propose to traverse all of that evidence in fine detail. Rather, it will seek to identify the key points that emerge from it and endeavour to illustrate its conclusions by reference to specific scenarios.
237. It will be recalled that, following the preferring of criminal charges against POI 1, the CITF was brought into being with a view to developing guidelines for dealing with complaints of sexual abuse by members of the clergy. It was not until September 1994 that a protocol was finally approved. Incredibly, it was a further 15 months before a Contact Person was appointed and an additional four months until the DRG was constituted and held its first meeting on 17 April 1995. As the Board’s earlier recitation of historical events indicates, the wider protocol to extend to Church workers generally did not receive approval until late 1999.
238. As readily emerges from earlier sections of this report, it is plain that the structure erected was seriously flawed in the number of respects. The salient problems were –
- (1) There was no effective system of coordination of the processing of complaints from inception through to final disposal. That situation was compounded both by the absence of proper system of files or records and also what appears to have been continuing problems of

communication and feedback at all levels as previously referred to;

- (2) The structure of the system (including the dearth of resources provided to the DRG) was such that, almost inevitably, gross delays in disposal of matters were the order of the day. One illustration of this has already been given. That was merely symptomatic of a more general problem;
- (3) An insistence on written complaints plainly added to the delay. Further, the evidence before the Board suggests that that very requirement acted as a strong negative factor against victims maintaining complaints in any event. Various witnesses spoke of this aspect and the Board will return the topic in a more general context in due course;
- (4) Not only was the protocol related to the DRG at odds with the concepts of the Clergy Discipline Ordinance, but, also, it was foredoomed never to attain one of the important goals intended by its creation i.e. to separate the Archbishop from the detailed processing and investigation of claims and leave him in a position whereby he could ultimately arrive at decisions objectively and with the benefit of proper advice, in a manner consistent with the dictates of natural justice;
- (5) A further problem was that, on the evidence before the Board, the DRG was, rightly or wrongly, perceived as being the *alter ego* of the Church itself, rather than an independent group charged with the responsibility of objective appraisal of the situation. This was really unfair to the members of the DRG, but it was, on the evidence, the reality of the situation, compounded by the fact that the DRG had no means itself of pursuing proper investigations. These were orchestrated by the Archbishop, or his senior officers;
- (6) In practice, the Archbishop at times simply took control of situations himself without really involving the DRG in accordance with the protocol and/or intervened without there being effective feedback to that body. There was thus a lack of consistency in the treatment of individual matters;
- (7) From time to time, complainants were told by the Contact Person of the then statutory moratorium provisions related to the prosecution of criminal proceedings, in a manner that tended to dissuade them from further pursuing complaints. This was unfortunate, because the fact

that such a moratorium existed was no reason why complaints of misconduct ought not to have been investigated and acted upon within the Church environment itself, given the long history of offending associated with paedophilia;

- (8) Equally, if a stage was reached at which a complainant elected not to prosecute a complaint through to some logical conclusion, then that election was usually accepted, even if, on the face of it, the complaint *prima facie* involved improper sexual conduct. In such circumstances, there was no question of any involvement of the police or other statutory authority, much less any further investigation on the matter within the Church to ensure that there was no matter of substance that it needed to address.

239. The processes used to deal with complaints of sexual abuse within the Church were not, in many cases, transparent and objective, and left the complainant feeling, at best, extremely disappointed.

A single example will suffice to illustrate the point –

Scenario related to POI 15 and POI 16

As of late 2000 POI 15 was a year 11 student at a private school. She was brought up with a Uniting Church background. She and her family had attended a major Anglican Church from about the preceding Easter, at which time they had become attracted to the Anglican form of worship. It is obvious that POI 15 is a very sincere young woman with a deep religious faith.

Shortly after the family commenced worshipping at the Church, POI 16, a married man then aged about 55 years, welcomed them to the faith. He held a senior pastoral appointment as a member of the clergy at the Church.

Thereafter POI 15 had regular contact with him. Having expressed some interest in entering Theological College it was arranged that she spent a week with POI 16 by way of work experience. Out of that contact there grew what developed into an inappropriate relationship between the two, at least from the perception of POI 16. He obviously became infatuated with POI 15.

He visited her home (albeit, on occasions, to counsel her mother) and set up various arrangements to meet her frequently. He ultimately commenced seeing her up to three times a week, sometimes picking her up from school. At one point he began to hug her on various occasions and tell her that that had to be a secret. Eventually he told her that he loved her.

When he went into hospital he begged her to come and see him because he was apprehensive about a surgical procedure that he was to undergo. He telephoned her several times from hospital, wanting to talk to her and have her visit him. She did visit him, taking her siblings with her, so as to ameliorate the development of what was becoming a very embarrassing situation from her point of view.

Whilst the group was present in his room it became obvious from a telephone call that relationships with his wife had become strained. He asked the children to remove any traces of their presence from his room when they left. As POI 15 left POI 16 reiterated that he loved her

and he kissed her on the cheek. He later wrote a quite inappropriate letter to her. From time to time, both before and after that occasion, he also inappropriately discussed confidential information with her.

His conduct developed to the point that POI 15 became very upset and uncomfortable. She had in no sense encouraged him or formed any romantic attachment to him. Ultimately POI 15 confided in her mother and also her school Chaplain, who was most helpful and supportive. The Chaplain, considered that the conduct of POI 16 was improper and unethical. On behalf of POI 15, and with her approval, he contacted Dr Black as the Contact Person in February 2001. Dr Black discussed the situation with POI 15 who, at her request, provided a detailed written account of what had occurred.

At about the same time the senior Parish Priest, having heard something of the situation second-hand, also spoke with POI 15 and the Chaplain concerning what had transpired. He agreed that it was best to let the process take its normal course via the Contact Person through the DRG.

It is not entirely clear as to precisely what occurred at that point, in the procedural sense. A memorandum on file indicates that the chair of the DRG discussed the matter with the senior Parish Priest, who was then to take the matter up with POI 16. However, on 27 March 2001, the chair of the DRG wrote to the Archbishop recommending that the matter be discussed by the latter and the senior Parish Priest with POI 16. It was also recommended that that POI 16 write a letter of apology to POI 15 and her family; and that attention be given to the future nature of his pastoral work.

The next development seems to have been that POI 15 and her parents received a request to attend a meeting to be held at Bishop's Court one evening. The DRG and Contact Person were unaware that the meeting was to take place and they were not subsequently told of the outcome of it. They were simply "*Left out of the loop.*" It is not clear precisely when the meeting was held, but it must have been very shortly after 27 March 2001.

POI 15 attended the meeting with her parents. On entry into the room they found the Archbishop and POI 16 waiting for them. The latter was sitting close to the left of the former. The Archbishop commenced by referring to POI 16 as his "*dear friend and spiritual adviser*". At some point the Archbishop went on to say that he did not want to lose POI 16 because he was "*so valuable to the ...[Church]... and community*".

There was only limited discussion of some specific aspects of the complaint. The Archbishop referred to the large and warm family of POI 15, on the one hand, and that POI 16 was alone and had had an unhappy childhood, on the other. The significance of the reference to him being alone is not entirely apparent, in view of the fact that POI 16 was a married man. The Archbishop indicated to the Board that he was really referring to the inherent loneliness of a member of the clergy in having, to some extent, to keep a little aloof from members of the congregation.

At one stage the Archbishop asked if POI 15 loved POI 16. She was somewhat taken aback at that question but responded in the affirmative – but not meaning to convey love in the romantic sense. Her answer must be understood against the background that there had been some earlier proposal that POI 16 would become her godfather, because her original godfather had died at an early age. The response of the Archbishop was "*Well, let's be thankful it didn't get physical*"

The interview concluded by the Archbishop saying – "*Well, You know you're both valuable. I don't want to lose either of you, so let's just leave it in hands of the Holy Spirit.*" Prayers were then said.

Since that time the family felt that they were subsequently ignored at the Church. It is not clear that any disciplinary action was taken against POI 16. He resigned his position at the Church and eventually retired from the full-time ministry soon after the relevant events.

240. With all due respect to the Archbishop, the structure and process involved at the meeting as above described were unfortunate. It is small wonder that the complainant and her parents left the meeting highly upset and very dissatisfied. They held the perceptions –

- (1) that the Archbishop was biased in favour of his “*dear friend and spiritual adviser*”, who was “*so valuable to the ...[Church]... and the community*”;
- (2) that the real substance and detail of the complaint had received limited attention and the Archbishop appeared to be acting as the advocate for POI 16, rather than a person objectively dealing with a complaint situation;
- (3) that a major focus of the Archbishop was on not losing a valuable priest;
- (4) that he was not overly concerned, in that no harm had resulted because “*it didn’t get physical*”, even although the behaviour of POI 16 represented a significant breach of trust on his part;
- (5) that what was a serious matter had been minimised by having largely been characterised as something of “*a storm in a tea cup*” notwithstanding the fact that the Archbishop, on his evidence, says that he admonished POI 16 in front of the family for behaviour that was inappropriate; and
- (6) that no satisfactory outcome had been achieved – least of all the proffering of some form of proper apology. Rightly or wrongly, they left the meeting feeling that they had been treated almost as having unreasonably caused trouble.

241. Whether all or any of those perceptions are true in fact is beside the point. They were perceptions reasonably arrived at and, to the holders of them, constituted reality. The Board has recited this scenario at length because the complaint raised serious issues of improper and unethical conduct towards the complainant, amounting, *inter alia*, to sexually inappropriate behaviour. It was a matter that should have been treated with sensitivity and understanding and generally dealt with in a manner that indicated to the aggrieved party that a fair, just and objective approach was being adopted. This did not appear to occur and, in essence, the DRG recommendations were not implemented.

242. The situation within the other Church bodies was somewhat variable, although certain of the incidents referred to in the course of evidence are cause for considerable concern. The material before the Board reveals that, in a number of instances, there was a continuing culture much more malign than that developing in the Church itself.
243. In some areas there remained a strong culture of minimisation and active refusal to accept the possibility of sexual abuse (as has been seen in relation to the Brandenburg scenario), coupled with an unwillingness to initiate proper or adequate investigations obviously indicated by the circumstances. A predominating factor that seems to have pervaded a number of bodies was a desire to preserve the good name and reputation of the relevant institution, seemingly at all costs.
244. In one or two instances, as adverse media attention gradually came to bear on the Church and its bodies, some situations developed whereby apparent reaction to public criticism appears to have generated certain processes that fell far short of according natural justice to individuals concerned.
245. Two specific scenarios revealed by the evidence will serve to illustrate certain aspects of what is said in the preceding paragraphs –

(1) *The dismissal of POI 9*

This person was the Chaplain of a major school within the Church system and came to his position from the United Kingdom. On the night of 5/6 June 1992 a boarder, who had closely been associated with him as sacristan in the school chapel, was to stay at his house over an *exeat* weekend. During the evening POI 9 plied the boarder with wine, instructed him and another young person who was a house guest to undress and get into bed with him, and then perpetrated an indecent assault on the boarder. The boarder got out of the bed, put on a T-shirt and ran to the nearby house of his housemaster, and complained of what had occurred.

When interviewed by the Headmaster the following morning in the presence of the Deputy Headmaster, POI 9 acknowledged the truth of the complaint. He was required to tender his resignation forthwith and instructed to leave the school premises virtually at once. The matter was reported to the Archbishop as chairman of the school council the same morning.

Having nowhere to go, POI 9 contacted a friend P, who was also a member of the Anglican clergy, based in a parish on the south side of Adelaide. P agreed to take him and his house guest in on a temporary basis and they immediately proceeded to his house, taking what personal items they could carry.

Shortly after they arrived the Archbishop telephoned P and intimated that he desired to come to the house and speak with POI 9. He did so at about midday. Immediately after that interview POI 9, who presented in a highly distressed state after speaking with the Archbishop, told P that the Archbishop had said to him that, unless he departed Australia within 24 hours, the matter would be reported to the police. POI 9 later said in a letter written by him to the Archbishop that he had been advised to flee the country. With the aid of P POI 9 urgently arranged air bookings and he and his house guest flew out of Adelaide at 4 pm the same

afternoon. He connected with a flight to Bali, arriving there the same day.

The Archbishop denies having made such a statement to POI 9 and the Headmaster and Deputy Headmaster state that they were unaware of the situation until after the actual departure of POI 9. There is no suggestion that P urged or advised POI 9 to flee the country. It is plain that someone in authority did instruct POI 9 to immediately leave the country, although, in the absence of direct evidence from him, the Board is unable to make a specific finding of the identity of that person with confidence.

The Board notes that a letter dated 31 March 1993 written by the Archbishop in response to the letter written him by POI 9 concludes in these terms –

“I am sure the whole experience has been “like a bereavement”. It was very sudden and rushed. However, both the school and I would do exactly the same if it happened tomorrow. You have been a very lucky person to have survived without the horror of court proceedings and the indignity of public disgrace. I counsel you to think with gratitude about the way in which you were spared that indignity. That may help you to pick up the pieces.”

(2) *The dismissal of POI 10*

This person was appointed as acting Chaplain of a girls’ School within the Church system. On 8 May 2002 the headmistress, having first conferred with the Archbishop and the chair of the school council, summoned POI 10 to her presence and informed him that his contract was to be terminated with effect 24 May 2002, although his active service was to conclude on Friday 10 May.

The expressed basis for the termination was what was said to have been inappropriate physical conduct towards other female staff members, the headmistress having spoken to POI 10 about a week earlier concerning the potential danger of making physical contact with female staff or girls. On the evidence before the Board all of the incidents concerned were of a relatively minor nature and involved no sinister intent on the part of POI 10 – a feature that, he says, was conceded to him by the Headmistress on the day that he ceased work. The headmistress did not challenge that assertion.

The earlier discussion could not be said, in industrial terms, to have been a formal warning founding a basis for dismissal. It arose in the course of a normal weekly meeting between POI 10 and the headmistress. Moreover, the decision to dismiss POI 10 was taken in circumstances that plainly constituted a denial of natural justice and in which he was given no opportunity to respond to any allegations that had been made against him.

The Archbishop interviewed POI 10 on 11 May and stated that he had concurred in the decision of the headmistress to dismiss him. He was instructed to say that “*things had not worked out*”, not that he had been dismissed. He was also required to undergo consultations with an appropriate psychiatrist or psychologist.

Some interaction apparently occurred between the Archbishop and the DRG concerning the matter. POI 10 attended a psychiatrist nominated by Church Office. This gave rise to a report dated 16 July 2002 that was quite favourable to him.

However, his general licence to officiate was suspended by the Archdeacon of Adelaide on 31 July for reasons that the Archbishop now seems at something of a loss to justify. On 16 April 2003 a psychologist consulted by POI 10 on a number of occasions wrote what can only be described as a scathing report to the Archbishop. She expressed the opinion that the above licence suspension had been imposed without proper process and that POI 10 presented no risk to his employer in having his licence reinstated. The general tenor of her report was consistent with that of the psychiatrist.

The licence had not been reinstated at the time at which POI 10 gave evidence, seemingly

upon the basis that the matter had been passed on to the new PSC for consideration and recommendation. A restricted permission to officiate was issued to POI 10 on or about 14 January 2004.

246. Those scenarios reveal serious, but varying, departures from due process. They are to be contrasted with failures to act in other instances. The common thread between the two is an obvious determination to protect the relevant institution from potential adverse publicity and public criticism at all costs. These important points need to be made in relation to what transpired –
- (1) There can be no doubt that the conduct of POI 9 was such as to attract instant dismissal. However, it is difficult to perceive any warrant for a demand that he quit the school campus virtually instantly, leaving it for the school to pack and forward his personal effects, and then depart the country within 24 hours.
 - (2) It is said that the attitude of those concerned was born of the desire to protect the victim of his conduct. The short riposte to that suggestion is that the events in question occurred on the Friday night of an *exeat* long weekend. No students were to be on the campus for several days and only the senior resident staff were present. The likelihood of any knowledge of what had transpired becoming public property over that period was negligible.
 - (3) More importantly, it is significant that, despite the fact that section 91 of the Community Welfare Act (as then in force) mandated a report of what had occurred to an officer of the relevant department “*as soon as practicable*” after the situation had come to notice, the Headmaster made no such report until almost a fortnight after the event. The police were eventually notified on 23 June, via an officer of the department. The Headmaster had no clear memory of to whom he actually reported the situation or precisely when he did so. He does, however, recall that, at some stage the Archbishop advised him that he should report the matter to either “Anglican Community Services” or “Family and Community Services.” He cannot now remember which.
 - (4) In all fairness to the Headmaster it must be recognised that he had only come to South Australia in August 1991 and was not entirely familiar with the local legislation. Nevertheless, the then Deputy Headmaster gave evidence to the effect that the statutory obligation to report the incident as soon as practicable was discussed by him with the Headmaster at the time.

- (5) The failure to report in a timely manner was plainly in breach of the statute, the obvious aim of which is to precipitate an immediate investigation of the relevant circumstances whilst the evidentiary trail is fresh.
- (6) The conduct of whoever threatened POI 9 and required him to leave the country was even more profound in its consequences. In reality it negated the practical possibility of any effective police investigation and the launching of a criminal prosecution against the offender – a consequence that the person making the threat must have realised, if not expressly intended.
- (7) It was asserted to the Board that the approach adopted by the Headmaster and concurred in by the Archbishop was designed to protect the victim and his family and that, ultimately, the latter did not desire the launching of prosecution, for fear of the publicity likely to be attendant upon it.
- (8) Whilst the attitude of the victim's family may, in the longer term, have been a factor that influenced the failure to report in a timely manner, the Board finds it difficult to accept that this was a predominant factor in relation to the immediate actions of the Headmaster with the concurrence of the Archbishop on 6 June 1992. The plain inference is that they decided to get the offender out of the way in a manner that minimised the possibility of adverse publicity and consequential damage to the reputation of the school. A police inquiry and subsequent prosecution was probably the last thing that either would have wanted.
- (9) The Board would point out that, if the actions of the person who threatened POI 9 were prompted by a desire to negate what was considered to be an undesirable police investigation and successful prosecution, then serious questions may well arise as to whether a criminal offence may have been committed under either section 241 or section 256 of the Criminal Law Consolidation Act.
- (10) All in all, what was said and done was ill-advised, contrary to the public interest and a failure of proper process. Equally, it had the potential, in the long term, to reflect very adversely on the integrity of the Church and its bodies.

- (11) It was also a failure of proper process in another respect, in that, quite apart from constituting a breach of statutory duty, it was associated with a total failure on the part of the school to conduct any investigation at all into the wider conduct of POI 9. Because the offender had fled the jurisdiction and the victim's family wished to keep the situation quiet, the police also did not conduct any detailed, wider investigation. This would largely have been abortive in the circumstances. Had they done so and also questioned POI 9, it may well have come to light that, over a substantial period of time, the offender had, in fact, been committing a far more serious pattern of sexual abuse on the boy who was the assistant sacristan. Even when the parents of that boy raised the issue at a later stage, no investigation was mounted. The attitude of the school was dismissive.
- (12) It was said on behalf of the school that, on the facts as known at the time of the dismissal, there was nothing to indicate any need for a wider investigation. The Board does not agree. There were two important indicators that were simply ignored.
- (13) First, there was the curious circumstance of POI 9 having returned from a holiday in Bali at the commencement of the term with a young Balinese male, who then stayed with him on the school campus for a period of somewhere between as little as 5 and as much as up to 15 weeks. It was made clear to the Headmaster on the night of 5/6 June that that person also participated in the sexual activities on the night in question as a willing party.
- (14) The Board finds the reasons expressed by the Headmaster and the Deputy Headmaster for not finding that situation suspicious somewhat ingenuous. The Headmaster thought that the young Balinese had come for the Festival of Arts – a conclusion that was somewhat strange, as the latter apparently presented as a fairly basic personality unlikely to be a patron of the arts and remained long beyond the period of the Festival. The Deputy claimed an ignorance of the length of stay of the young man that is extremely difficult to reconcile with the evidence of the witness P.
- (15) Second, not long after the events of 5/6 June, the boy who was the assistant sacristan and was in hospital undergoing psychiatric treatment at the time, made persistent enquiries of the school as to the whereabouts of POI 9 in a manner that was, to say the least,

unusual. He asserts that, having received somewhat evasive responses, he persistently telephoned Bishop's Court one evening and eventually spoke with the Archbishop at about 11pm.

- (16) He says that, on inquiry as to what had happened to POI 9 he was told by the Archbishop that POI 9 had "*gone overseas on urgent family business*". By any test, this telephone call was an extraordinary incident that would naturally excite questions as to the possible relationship between the lad and POI 9. In the course of his evidence the Archbishop denied any memory of such a conversation, although he says that, some years later, he did receive a telephone call from the boy at about midnight. He denies having made any statement to the above effect and, on that occasion, counselled the lad to take any matter of complaint up with the school.
- (17) The Board was informed that, subsequent to the incident in question, detailed protocols for dealing with issues of sexual abuse had been developed and promulgated within the school for the purpose of ensuring more appropriate responses in the future.
- (18) The case of POI 10 illustrated a process failure of a quite different nature. It was a classic illustration of failure to accord natural justice to an alleged offender.
- (19) It is to be recalled that the termination of the employment was not by way of instant dismissal. It purported to take effect as of a future date. POI 10 actually continued to work until the close of the following Friday. To the extent that the dismissal was based on any alleged serious misconduct the continued employment of POI 10 after 8 May may well have amounted to industrial condonation – an aspect that does not seem to have been considered by the Archbishop's legal advisers.
- (20) By any industrial standard the situation was poorly and inappropriately handled. In a normal industrial setting it would undoubtedly have been characterised as an unfair dismissal.
- (21) A conversation between the Headmistress and POI 10 on 1 May was not, in terms, a formal warning of potential dismissal in the event of re-occurrence. In any event, it is clear that, prior to speaking with him on 8 May, the Headmistress, after consultation with the Archbishop, had already made a decision to dismiss POI 10 without first giving him any indication of the detailed complaints against him

or affording him any opportunity of responding to them.

- (22) Further, the manner in which the follow-on situation was handled left a great deal to be desired. What was said to POI 10 was, at best, equivocal. The Archbishop requested him to see a psychiatrist nominated by the Church, the innuendo being that he would be allowed to continue his ministry if a suitable report was forthcoming. The later suspension of the licence seems difficult to justify and may well have evidenced some degree of lack of internal communication within Church Office.
- (23) Certainly the situation became complicated at a later stage when another, quite separate, complaint was received. However, it is clear from the correspondence that the suspension of POI 10's licence on 31 July 2002 was a belated response specifically based on the conduct at the school.
- (24) A letter written by the Archbishop to the Headmistress of the school on 31 July states that the suspension of the licence would be followed by a review when advice had been received from the DRG.
- (25) A review did not take place until 14 January 2004. No firm advice was ever given by the DRG to lead to a final resolution of the situation and the matter seems not to have progressed until the PSC considered it at about that time. The Archbishop pointed out that some of the delay involved probably resulted from absences by POI 10 and what was asserted to have been some degree of dilatoriness on his part. However, the fact remains that the whole process was slow and less than satisfactory.
- (26) The Board considers that, on any view, what occurred in this case was also a clear process failure. Where there have been complaints of misconduct, these need to be addressed fairly and promptly, having regard to the proper interests of both any complainant and the alleged offender and in accord with the dictates of natural justice. What occurred in this case demonstrates not only that this did not occur, but also that those dealing with the situation had little regard for well-settled industrial principle.

Recommendations:

The Board recommends that urgent steps be taken within Church bodies to ensure that all responsible personnel understand the

importance of making immediate reports of information received with regard to alleged sexual abuse by Church workers. These should be made to the Department of Family and Youth Services and/or the police without any prior intermeddling in the situation. Clear and unequivocal policy directives should be promulgated to that effect and enforced.

The Board strongly recommends that, to the extent that this has not already been done, detailed protocols related to the processing of complaints against employees and disciplinary processes related to them be developed for promulgation to and implementation by all Church bodies. These should be based upon established industrial principle and best practice and steps ought to be taken to ensure that managers are conversant with them

General Conclusions and Future Directions

247. The evidence before the Board indicates that there are a number of general conclusions that can be drawn from the situations that arose prior to Synod 2003 and the witness evidence concerning them.
248. In the course of this report the Board has attempted to identify process failures that have occurred in the past and has made a number of recommendations designed to overcome those problems. Having regard to evidence received from various experts in the field the Board proffers some final recommendations for the future.

Complainant Rights

The Board recommends that the Church ought to take as its commencement point a charter of fundamental rights of complainants of sexual abuse akin to those recommended by the Uniting Church in Australia Commission on Women and Men, 1992. That Commission pointed out that it was important, inter alia, to respect the following rights –

- *To be taken seriously*
- *To be treated with dignity, respect, sensitivity and understanding*
- *To be given information*
- *To retain complete control of their personal situation*
- *To have privacy and confidentiality*
- *To be provided with a proper standard of medical treatment*

- *To seek justice through the legal system where appropriate*
- *To be provided with appropriate pastoral help and support*

249. That is not, of course, to deny the clear moral obligation of the Church also to provide appropriate help and support to persons accused of sexual assault and to accord them natural justice pending the ultimate consideration and disposition of allegations against them.

Structure for Processing Complaints of Sexual Abuse

250. It is stating the obvious to say that any structure erected within the Church to receive and process *information* of the type referred to in the Board's terms of reference will not be truly successful unless it and its *modus operandi* command the confidence and respect of potential complainants and also those whose conduct is in issue. That respect will only be attracted if -

- (1) The process is, and is seen to be, user-friendly and accords natural justice to all concerned;
- (2) Those who carry the process into effect are, and are seen to be, truly independent and objective; and
- (3) The process is, and is seen to be, fair, efficient, effective, transparent and expeditious.

251. It should be noted that, in relation to the expression of each desirable characteristic, the Board has stressed the importance of the *outward* appearance of any proposed structure and the manner in which it is *seen* to operate. The evidence given before it compellingly indicates that the manner in which victims *perceive* both aspects is critical in relation to the generation of such confidence.

252. In the course of evidence before it, the Board rapidly became aware of the anguish and difficulty experienced by victims in facing up to the prospect of making a complaint and then actually articulating it to others. At the stage when many victims are considering what to do, it takes very little in the way of disincentive factors to discourage them from doing anything at all. The Board itself had to face this problem in the early stages of its existence and is acutely aware of the importance of establishing a regime with which potential components are as comfortable as possible.

253. Having regard to the evidence before it, the Board is of opinion that the structure currently in place still exhibits certain of the problem features that bedevilled its predecessor, even allowing for the fact that it appears, in one sense at least, to be better resourced.
254. There are certain features of the PSC structure that attract comment. The Board proffers these comments:-

Independence

- (1) It is vital that the complaints structure be seen as something other than the mere *alter ego* of the Church itself and is perceived as separate and apart from the bureaucracy of the very body whose priests or workers are being complained about. It needs to be made apparent that the structure has the same desirable degree of independence as (say) the Anti-Corruption Branch of the South Australia Police, even though it necessarily exists within the aegis of the Church administrative framework.

Consistency

- (2) That need mandates proper publicity of such a situation and the development and consistent application of protocols designed to ensure the integrity of the system. It must be said that a major criticism of the DRG structure was that there was no consistency of procedural approach and the DRG protocol virtually ensured that it could not really discharge a truly effective function. The Archbishop intervened at will and the DRG itself was without direct resources or power to conduct a full investigation and carry matters through to any truly logical conclusion. In addition the DRG did not consistently receive feedback on the outcomes of each matter from the Archbishop.

Key Features

- (3) That said, practical questions naturally arise as to the provision of an appropriate means of contact and first expression of a complaint, the nature of initial contacts, and the subsequent follow-up by the relevant contact person. It is also necessary to address the manner in which and expedition with which the complaint is then processed, the nature of its outcome and communication to the complainant, and the support offered and given to the complainant.

Form of Complaint

- (4) One of the inherent weaknesses of the DRG structure was the requirement that the complainant had to present a complaint in writing and that it was considered that the proper role of the Contact Person did not include assisting the complainant to formulate such a document. It is clear, on the evidence, that this requirement alone brought about the result that a not insubstantial number of complaints were never proceeded with. The Board was informed that, as time went by, the problem was recognised and, at least in some instances, external assistance was organised by the DRG to facilitate the proper formulation of complaints.

The PSC protocol does not stipulate any requirement for a written complaint, although the Clergy Discipline Ordinance does.

Formulation of Complaint

- (5) The Board accepts that it is important that the substance of the complaint and the facts relative to it be committed to writing at an early stage. However, this is best done in the manner adopted by SAPOL in relation to criminal investigations. A suitably skilled person should interview the complainant, record details of the complaint, prepare a written distillation of the relevant facts asserted, and then request the complainant to subscribe to it, after that person has first had a proper opportunity of perusing and editing what has been prepared. The Board understands that this is essentially the manner in which the Director of Professional Standards currently operates. It commends such an approach.

External, User-friendly Point of Contact

- (6) For reasons already expressed it is vital that a point of initial contact be maintained via a means external to Church Office. In recent times this has been achieved by outsourcing that function to Yarrow Place, as an experienced and competent independent body. The Board understands that the PSC proposes to continue such an arrangement and it strongly endorses that strategy. It is an important first step in reassuring potential complainants of the independence of the complaints system and providing a readily identifiable and simple means of contact that, at least initially, can be anonymous.

Current PSC Process

- (7) The current protocol envisages that, once information has been received (either verbally or in some written communication), the follow-on process will be driven by the Director of Professional Standards, who both convenes and is executive officer of the PSC itself, as well as being one of the members of it. The Director is an employee of the Diocese, although the protocol is not specific as to her report lines or the extent to which she is subject to direction, if at all. She is appointed by the Archbishop after consultation with the Diocesan Council. This is an arrangement that differs markedly from the situation of the former Contact Person vis-à-vis the DRG.
- (8) Having regard to the evidence relating to the manner in which the former system operated, the witness evidence and the strong views expressed by experts who appeared before it, the Board has serious reservations as to the desirability and integrity of such a structure – particularly bearing in mind the likely perception of persons having dealings with it. There are two important conceptual issues that arise:

Composition of PSC

- (9) The Board considers it wrong in principle for the Director to be both the executive officer and convener of the PSC and also a member of it. Leaving aside her other extraneous duties, she is charged with the responsibility of both managing the implementation of the protocol and also discharging the relevant executive functions.
- (10) In practical terms, that implies that the Director will need to receive information, orchestrate necessary investigations, interview complainants and witnesses, take statements and assist in the formulation of written material.
- (11) There will also be a need, to some extent, to act in the role of advocate assisting the PSC and thus discharge a role conceptually akin to that of prosecutor. From the perspective of a person who is respondent to an allegation made under current arrangements, the Director would, not unreasonably, be perceived as both prosecutor and actual decision maker as to whether the matter ought or ought not to be sent on to the Board. Conversely, from the perspective of an alleged victim, in the case of a decision not to place the matter before the Board, the Director may well be perceived as the person who, after forming a view in the course of investigation, has simply

promoted that view to the Committee in the capacity of prosecutor.

- (12) Bearing in mind the potential far-reaching consequences of possible recommendations made by the PSC (including those as to suspension) this is a most important consideration that cuts directly at the heart of the credibility of the process.
- (13) Also the functions to be discharged by her may well expose the Director to all manner of input, sources of information and even rumour, some of which ought not to be before the PSC, having regard to considerations of relevance and potential prejudice. Further, membership of the PSC may well inhibit the due discharge of the other roles to which reference has just been made. Moreover, one cannot, simultaneously, be both master and servant.
- (14) Additionally, it is vital that the PSC, in its constitution, be and be seen to be, quite independent of the Diocesan administrative staff, of which the Director is necessarily a member.
- (15) The above points are not intended as any personal criticism of the present Director, who has clearly approached her task with zeal, competence and integrity. It is simply that the current structure is, in the view of the Board, conceptually flawed.

The Element of Independence

- (16) It is clear on the evidence that no structure will be perceived as adequately independent unless either its composition is seen to be fully independent or, alternatively, it is subject to patently independent oversight to ensure a just and expeditious discharge of the prescribed functions.
- (17) Unlike the DRG, the PSC is enjoined to fully investigate all information brought before it and make appropriate interim and final recommendations concerning processing of the matter of complaint. The Board assumes that this is so, regardless of whether an informant actively seeks to proceed with a formal complaint or not. Once information comes to hand it is important that it be investigated, regardless of the attitude of a particular, known victim. This is critical because the research evidence before the Board clearly indicates that, in cases of sexual abuse, there may well be multiple victims. Research indicates that this can be of the order of 6-10

victims⁶. Recidivism is a very common feature.

- (18) The protocol obviously envisages that, other than in exceptional circumstances, the Archbishop will not intermeddle in the investigatory phase, thereby ensuring that the PSC can address them in a fully objective manner.
- (19) The Board considers that there is much to be said for the present requirements as to qualifications and experience of the PSC members. However, it is strongly of opinion that, to ensure transparency and credibility, the Director ought not be a member of that body and that there should also be created a quite separate, part time, office of the nature of an Independent Ombudsman.
- (20) The latter office should be filled by a person with appropriate experience in the law or public administration and not be connected with the Church or its bodies. The receipt of all information should be notified to the Ombudsman, who would be responsible for auditing procedures from time to time to ensure that all matters are processed in a timely and proper manner.
- (21) Such a person could be approached direct for assistance by dissatisfied victims and the Ombudsman would simultaneously report any matters of concern direct to the Archbishop and the Diocesan Council (or, perhaps more appropriately, a nominated subcommittee of the latter). An office holder of this nature could be remunerated on an annual allowance basis.
- (22) The anecdotal and expert evidence abundantly satisfies the Board that victims would not perceive an independent member of the PSC as being a person who could readily be approached in the manner envisaged. Individual committee members are not perceived as direct points of contact to complainants. Nor would that person be perceived as someone who could or would readily express criticism of the work of the Director and/or the PSC (of which he or she was a member) and press their concerns in an effective manner.
- (23) In truth, it may well be argued that for an individual so-called “*independent*” member of the committee to take up the cudgels on behalf of a complainant would constitute a breach of duty and potentially give rise to a conflict of interest on the part of that

⁶O’Leary P (2002) *Men who were Sexually Abused as Children* Doctor of Philosophy Thesis (unpub) Flinders University of South Australia

member. Serious problems of objectivity, committee collegiality and confidentiality would necessarily arise.

Recommendations:

The Board recommends that –

- (1) The current composition of the PSC be reviewed and that the Director of Professional Standards be not a member of it; and***
- (2) An independent supervisory office of Independent Ombudsman be created, with the particular responsibility for auditing the activities of the Director and the PSC in manner above referred to.***

Venue

- (24) Of equal importance in ensuring that victims will feel comfortable in proffering information is that both the Director and the PSC should operate from a non-threatening venue, geographically separate and distinct from Church Office. Having heard many aggrieved witnesses, the Board is convinced that careful consideration needs to be given to this practical aspect. It notes that the policy of the present Director is to go to informants and take details from the persons concerned in a place of their choosing. This is manifestly a wise approach whilst the Director is located at Church Office.

Reporting

- (25) It is not entirely clear from the protocol as to what is expected of the PSC in relation to reporting of cases of alleged sex abuse to FAYS and/or the police. The document merely states that, in relevant cases, the PSC is to assist the police and cooperate with Civic authorities, as appropriate.
- (26) It has not generally been understood in the past that, in cases in which there has been conduct that may amount to a criminal offence against either a child or an adult, it is important that investigations be not pursued by persons unskilled in criminal investigation, prior to the police conducting an investigation for their purposes. For a variety of reasons, such conduct could seriously impede police investigation and, in some circumstances, may give rise to such evidentiary problems that a potential prosecution could seriously be

prejudiced.

- (27) The Board emphasises that, in any situation in which information coming to hand suggests a real possibility that a criminal offence has been committed, a report ought at once to be made by the Director to the police (as well as a report to FAYS where appropriate); and that, thereafter, any investigatory process by the PSC should go forward in a manner agreed with the police. The Board strongly recommends that the protocol ought to mandate a specific obligation of the Director to make *immediate* reports to the appropriate authorities, in situations of the above type. The Board has been told that this is, in fact, her current practice.

Recommendation: The Board strongly recommends that protocols be put in place to formally mandate that –

- (1) Any member of the clergy, employee of a Church body or other Church worker who receives information that suggests a real possibility that a criminal offence of the nature of sexual abuse may have been committed shall forthwith report that information to the Director of Professional Standards; and that***
- (2) Forthwith upon the receipt of such information, the Director must report it to the police and FAYS.***
- (3) The Director also will ensure that necessary steps are taken to ascertain whether there are other victims who have been sexually abused by the same alleged perpetrator.***

The Danger of Recidivism and its Implications for Complaints Reporting, Investigation and Organisational Communication

- (28) One striking feature of the evidence before the Board is the number of instances in which there has, historically, been a failure to record and effectively promulgate the offending history of individuals – so that steps can be taken to ensure that they are not again placed in situations in which further offending is facilitated. The consequence has been that, in the case of certain persons of interest, further offences have been committed.

255. The Board notes that policies are now in place to ensure that proper character checks are carried out before appointments are made and that

due notice is given to other dioceses of the removal of licences for disciplinary reasons. It is fundamentally important that such policies be rigidly adhered to in the future. It is implicit in those policies that a future system of proper personnel files be maintained in respect of all members of the clergy and other Church *workers*. Such files as the Board has seen in the past scarcely meet that description. The Board was given to understand that the issue of creation and maintenance of proper personnel files (particularly in relation to the clergy) is still far from resolved. These need to be cross “*flagged*” in relevant instances to any files maintained by the Director of Professional Standards.

Recommendation: The Board recommends that, in future, professionally designed and maintained personnel files be established in respect of all members of the clergy and other Church workers and that these include details of reports of all “information”, as and when received, and the outcomes of any investigations or convictions in relation to them.

The Processing of Complaints

256. Subject to the need to cooperate in relation to any police investigation, it is critical that an immediate, thorough investigation be made of any information received under the aegis of the PSC. Bearing in mind the experience of the past as revealed by the evidence, the Board stresses the need to prosecute such investigations in an efficient and expeditious manner. Because of the ever present problem of recidivism it should do so on a broad front, regardless of the expressed wishes of the original complainant.

File Maintenance

257. It is vital that fully documented files be maintained at all stages. The Board notes the emphasis in the PSC protocol on a requirement to maintain such files and considers that this will constitute a major step forward.

Investigation

258. (1) Whilst, no doubt, certain work can adequately be carried out by the Director, the Board strongly commends that, in matters in which information suggests the possibility of serious misconduct, a suitably qualified external investigator be at once retained to perform the task. There are a number of reputable persons of this type available,

some of whom have had prior experience as a police officer. This is the approach that is currently being adopted by the Director and will ensure a prompt and legally professional report upon which the PSC can deliberate.

- (2) Presumably necessary investigation strategies in individual cases can be discussed between the Director and the chair of the PSC and agreed without the need for a full committee meeting.

PSC Sitings

259. (1) It is also extremely important that, once all necessary information has been received, the PSC proceed to consider it and conduct any necessary formal sittings with expedition. A justified major criticism of the DRG was that its processes were too slow and cumbersome.
- (2) This was essentially because, generally speaking, its members, who were all persons with other substantial outside commitments, attempted personally to discharge all requisite investigations and functions, in the main, without any other resources. The inevitable consequence was substantial delay. There will be little confidence in the system if a suitable sense of urgency cannot be injected into the procedures and maintained at all times.

Recommendation: The Board recommends that measures be taken (including the provision of adequate resources) to ensure that the PSC is in a position to consider and report on all matters coming before it with due expedition, having regard to the need to observe the dictates of principles of natural justice and for cooperation with the police.

Suspension Recommendation

260. Perhaps the most urgent initial matter to be considered and reported on by the PSC is whether or not a relevant licence should be suspended or the alleged offender removed from his or her current position, pending the outcome of full investigations. As some of the scenarios outlined by the Board illustrate, serious problems can arise if the question of possible suspension is not addressed at an early stage.

The Problem of Suspension

261. Whilst the recent statutory amendments of Canon Law provide a general power of suspension of a person who is or may be liable to the jurisdiction

of a diocesan tribunal, questions may well arise in the individual cases as to whether or not they fall within that description. It seems to the Board that, in the case of the clergy, careful consideration ought to be given to the form in which licences are issued in the future. This is an aspect as to which careful legal drafting will obviously be required. However, there would appear to be great merit in including appropriate reservations of rights of suspension and at least temporary redeployment in proper cases.

262. Further, it may well be that it would be unwise, in light of practical experience, to grant further unqualified licences that render it impossible to redeploy a member of the clergy, absent the proven commission of a prescribed offence. The Board does not presume to make a formal recommendation as to the detail of future licence provisions. It merely contents itself with drawing attention to an area that clearly merits careful consideration.

Recommendation: The Board recommends that consideration be given to the insertion into all future licences of appropriate reservations of rights of suspension and at least temporary redeployment in appropriate cases; and that, as a matter of policy, further unqualified licences be not granted.

Education and Training

263. An important change in the introduction of the Professional Standards Director has been the inclusion of an education and training mandate. This is a significant change as it attempts to integrate awareness raising and cultural change in the attitudes and behaviours amongst those involved with the Church. It can represent a move beyond a complaints process to a pro-active stand on sexual abuse and misconduct.

Recommendation: The Board recommends that, education and training activities of the Professional Standards Director be conducted in partnership with relevant external experts to ensure best practice is promoted within the Church and that it shares with the broader community a common concern with ameliorating sexual abuse and its negative effects.

The Influence of Risk Management on the Approach to Complaints

The Insurance Factor

264. It is obvious that insurance considerations have had a large bearing on the attitude and conduct of the Archbishop and the senior officers of the Church over a lengthy period of time. They have plainly felt themselves constrained by fear of a possible breach of their obligations to relevant insurers as to the stance that should be adopted both publicly and also towards individual persons claiming to be victims.
265. Clearly this is an issue that will need to be resolved as between the Church and its insurers for the future. The Board merely makes the point that past attitudes have reflected badly on the Church. They have tended to imply that the Church has had an uncaring attitude towards those persons who have been the victims of sexual abuse and that the principal concern of the Church has been the preservation of its own interests. The Board is informed by the Chancellor that positive steps have in fact been taken to reach an accord with relevant insurers.

Proposals of the National Sexual Abuse Working Group

266. With those considerations in mind the Board finally turns to the report of the above Group published in March 2003. It is indebted to The Chancellor for his exposition of it and the concepts underlying the recommendations made.
267. The Board respectfully endorses the points made in paragraphs 1.4 and 1.5 of the Working Group's report to the Standing Committee of General Synod. Those paragraphs are fully consistent with the evidence received by the Board in the course of the present inquiry. They are strongly reinforced by the anecdotal material previously referred to.
268. In the course of his submissions to the Board, the Chancellor referred to the draft interim protocols for dealing with sexual misconduct by Clergy and Church workers in the Diocese of Adelaide and also the draft Professional Standards Ordinance 2004, proposed to be placed before Synod in May 2004. He stressed the importance of a common national approach to the matters referred to in them. The Director of Professional Standards and Chair and Deputy Chair of the PSC also gave a valuable description of the manner in which the present interim structure is operating.

269. The structure implemented by Synod in erecting the PSC and providing for the establishment of the office of Director of Professional Standards is in substantial accordance with the draft Ordinance above referred to. Subject to three important qualifications the Board is of opinion that what is proposed should form a sound basis upon which to proceed in the immediate future.
270. The Board has already pointed out what it considers to be the essential objection to the concept of the Director of Professional Standards being an *ex officio* member of the PSC. It maintains its opinion in that regard in relation to the draft Ordinance.

In addition the Board recommends that the following identified weaknesses of the National Sexual Abuse Working Group's Protocols be addressed in its future implementation.

A fundamental deficiency in the scheme envisaged by the draft Ordinance is a lack of transparency that, in reality, can only be provided by some independent oversight of the overall process as has been previously discussed.

It must be acknowledged that the draft Ordinance envisages that one member of the PSC shall be a person who is not a member of the Church. As previously discussed, in practical terms, such a member could only have a very limited role to play in satisfying the obvious intention of the infusion of an element of independence and transparency into the process.

He or she would not have any oversight of the total process. That person would be bound by committee confidentiality and become very much part and parcel of the committee itself. The role would necessarily be limited to the initial adjudication of examinable conduct and information, with a view to recommendation to a relevant Church authority or reference to the proposed Professional Standards Board pursuant to Clause 54.

271. Based on the evidence before it the Board questions whether, absent some person of the nature of the ombudsman previously referred to, there is any real safeguard to ensure that the problems of the past in the due disposal of complaints will not re-occur. It strongly recommends a reconsideration of this aspect of the proposed Ordinance, although there is undoubted merit in an independent person being appointed as a member of the PSC in any event.

272. Finally, it must be noted that there is an obvious overlap between the processes of the PSC as envisaged by the draft Ordinance and the associated protocol and the constitutional processes reflected in the Clergy Discipline Ordinance. The work of the PSC obviously parallels that of the board of inquiry envisaged by the last mentioned Ordinance. Although, in practice, it may well be that the principal focus will be on the initiation of processes via the PSC structure, the fact remains that it could still be open to the initiation of formal charges of offences for hearing by the Tribunal. The Chancellor informed the Board that it is hoped to take steps in the near future to resolve this aspect by formal constitutional means. It is obviously highly desirable that this be achieved.

Publication of Report

273. The terms of reference envisage that the Board will make a recommendation as to whether any or all of the contents of this report ought to be released into the public domain. Whilst this is essentially a matter of policy for decision by the Archbishop and the Diocesan Council, it is the recommendation of the Board that the whole of the report be so released.

274. Such has been the degree of public interest in the holding of the inquiry and the events leading up to it that, in the opinion of the Board, the credibility of the Church and its *bona fides* may well be in issue should there be a failure to ensure that the whole exercise has been transparent.

275. On the other hand, the Board recommends that the names of the various persons who are referred to by code in the body of the report be not so released, for the very reason that a code was employed in the first instance. There is no obvious requirement to release those names. To do so would be to constitute a breach of faith as to many witnesses who appeared before the Board. The publishing of their names would simply add to an already great hurt occasioned to many of them.

276. Following the delivery of this report the Board proposes to transmit all files and transcript relating to its proceedings to Church Office in sealed boxes as a permanent record of its activities. It recommends that access be not permitted to this confidential material other than with the express approval of the Archbishop and Diocesan Council. Further, it is recommended that should such approval be granted, persons given access to the material ought to be required to enter into a confidentiality agreement with the Church. The Board is of the view that, if any files related to class action litigants are proposed to be accessed, then, as a

matter of proper protocol, due notice of the proposal ought to be given to the solicitors for any litigants concerned. This will enable them to make such representations as they deem appropriate.



TERMS OF REFERENCE

for an independent inquiry into the way in which complaints about sexual abuse or misconduct have been handled in the Anglican Diocese of Adelaide, prior to Synod 2003.

The Synod of the Diocese of Adelaide of the Anglican Church of Australia Inc, responding to the community concern about the way in which sexual abuse complaints or misconduct have been handled in the past by persons in authority in the Diocese of Adelaide, has engaged for this purpose **The Hon. Auxiliary Justice Olsson, AO, MBE, RFD, ED** (Presiding Member) and **Dr Donna Chung** to act as a Board of Inquiry (“Board”) to inquire into and report upon the handling of such complaints in accordance with the following terms of reference.

1.0 Definitions

In these terms of reference, unless the context otherwise requires:

- (a) **“Archbishop”** means the Archbishop of Adelaide;
- (b) **“Church”** means the Anglican Church of Australia in the Diocese of Adelaide;
- (c) **“Church authority”** means the Archbishop of Adelaide or a person or body having administrative authority of or in a Church body to license, appoint, authorise, dismiss or suspend a Church worker;
- (d) **“Church body”** includes a parish, school, any body corporate, organisation or association that exercises ministry within, or on behalf of, the Church;
- (e) **“Church worker”** means a person who is or who at any relevant time was:
 - (i) a member of the clergy; or
 - (ii) a person employed by a Church body; or
 - (iii) a person holding a position or performing a function with the actual or apparent authority of a Church authority or a Church body;
- (f) **“Diocesan Council”** means the Diocesan Council of the Church;
- (g) **“Informant”** means a person who has provided Information;
- (h) **“Information”** means information of whatever nature and from whatever source relating to:
 - (i) alleged conduct of a Church worker involving sexual harassment or assault, or sexually inappropriate behaviour;
 - (ii) alleged inappropriate or unreasonable conduct or omission of a Church worker who had knowledge of conduct of another Church worker involving sexual harassment or assault or sexually inappropriate behaviour; or
 - (iii) an alleged Process failure; and
- (i) **“Process failure”** means the failure of the Church authority or Church body on or before the commencement of Synod 2003 to deal appropriately with or to investigate matters referred to in paragraph 1(h), (i), and (ii).

2.0 Terms of Reference

- 2.1 The Board shall inquire into and report upon the manner in which any Information provided by any Informant to a Church authority or Church body which arose out of the conduct of any Church worker has been handled by the relevant Church authority or Church body and whether there has been any Process failure in relation thereto.
- 2.2 In so doing the Board shall not be required to investigate the substance and validity of any such Information.

3.0 Procedure

- 3.1 The Board shall agree upon and adopt appropriate procedures with respect to the conduct of the inquiry as the Board considers will better facilitate a prompt, cost efficient and thorough investigation into matters related to the inquiry. If the Board cannot agree upon a particular aspect of the procedure then the Board shall adopt the aspect decided by the Presiding Member. The procedure shall include taking all reasonable and necessary steps to:
 - (a) ascertain when, to whom, by whom, and by what means Information was conveyed;
 - (b) ascertain the particulars of the Information;
 - (c) identify the response to the Information; and
 - (d) assess the adequacy of the response.
- 3.2 For the purpose of ascertaining the matters referred to in paragraph 3.1
 - (a) the Board shall be provided with all documentation in the control or custody of the Church authority or Church body, relating to the Information;
 - (b) the Board is authorised and directed to seek relevant information from such Church authorities, Church bodies, and Church workers as the Board considers may assist with the carrying out of the inquiry and report; and
 - (c) the Board may seek from the Informant such information as the Board considers can assist the carrying out of the inquiry and report.
- 3.3 The Board shall ascertain the procedures followed, the decisions made, and action taken by the Church worker, Church authority or Church body handling the Information PROVIDED THAT in the event of the Board being unable to jointly agree upon the ascertainment of a particular matter the Board will in respect of that matter adopt the ascertainment made by the Presiding Member.
- 3.4 The Board may inform itself by:
 - (a) interviewing such persons as the Board considers may assist the Board in carrying out the inquiry and report; and
 - (b) conducting hearings at which the Informant and the Church worker, or representatives of the Church authority or Church body may be present and, if desired, their respective legal or other representative.
- 3.5 The proceedings of the Board shall be conducted in private and the Board shall treat as confidential and privileged all information acquired by the Board in the course of the inquiry.

- 3.6 The Board may refuse to inquire into, or to continue to inquire into, any matter if the Board is of the opinion the matter is frivolous, vexatious or not sufficiently relevant to the matter of the inquiry, so as to assist the Board in discharging its duty to inquire and report.

4.0 Reporting

- 4.1 (a) The Board shall report to the Archbishop and the Diocesan Council whether in all the circumstances the procedure followed, the decisions made and action taken by the Church worker, Church authority or Church body handling any information was fair, reasonable and appropriate.
- (b) If the Board finds that any of the procedures followed, decisions made, and actions taken were a Process failure the Board shall report to the Archbishop and the Diocesan Council the respects in which the past handling was a Process failure and may make recommendations to the Archbishop and the Diocesan Council as to the course of action now available to the Diocese of Adelaide to overcome any Process failure.
- 4.2 In the light of its enquiries the Board may make recommendations in relation to the subject matter of the inquiry:
- (a) as to current and future systemic, administrative or operational processes which the Board considers would better enable the Church to respond to any future information promptly, appropriately and effectively; and
- (b) for referral to other authorities or agencies such as but not limited to, the South Australian Police, the Department of Human Services (FAYS), the Interim Professional Standards Committee, any other body within the Church and any other dioceses in the Australian Church.
- 4.3 It is contemplated and intended that the report and recommendations by the Board will be jointly made PROVIDED THAT if the Board is unable to jointly agree upon a particular aspect of a report or recommendation each member may in respect of that aspect make a separate report or recommendation.
- 4.4 When reporting to the Archbishop and Diocesan Council the Board will recommend whether the whole parts of the report may appropriately be made public PROVIDED THAT any report or any part of the report (if any) marked 'Confidential' shall not be publicised.
- 4.5 The Board will make a final report no later than 31st January 2004 but may apply to the Diocesan Council for an extension or extensions of time in the event that any exigencies require it.

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I certify that these terms of reference were adopted by resolution of Diocesan Council this ninth day of July 2003.

Archbishop of Adelaide