



Royal Commission into
Institutional Responses to
Child Sexual Abuse

PUBLIC HEARING

ROYAL COMMISSION INTO INSTITUTIONAL REPOSES TO CHILD SEXUAL ABUSE

GOVERNOR MACQUARIE TOWER, SYDNEY

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Justice Peter McClellan AM

The Royal Commission held its first public sitting in Melbourne on 3 April this year. On that occasion I spoke of the work which had been undertaken to organise the essential facilities for the Commission. At that time we were still working from temporary premises and had limited staff. However, by then we were able to take survivors' telephone calls and begin the investigative processes of the Commission.

The Commission has now established permanent facilities in Governor Macquarie Tower, this room having been constructed as the main room for our

public hearings. When not being used for a public hearing this room will be used for a number of other purposes. We have also employed staff in all areas of the Commission's operations but we believe that to effectively carry out the tasks assigned to us under the Terms of Reference our staff numbers will have to further increase, probably significantly.

The Letters Patent give the Commission broad Terms of Reference. They are not constrained as to time. Although the Letters Patent provide a catalogue of matters that the Royal Commission is to enquire into the fundamental obligation is "to enquire into institutional responses to allegations and incidents of child sexual abuse and related matters." However, the Terms of Reference do place limits on our task. In particular we are not authorised to investigate the sexual abuse of children unless it occurred in an institutional setting. It is apparent that this may not be understood by everyone who has an interest in the Royal Commission's work. I urge anyone who wants to understand our Terms of Reference to access the Royal Commission's website.

The Letters Patent provide a broad definition of institution. It is defined to mean any public or private body, agency, association, club, institution

organisation or other entity. The definition is informed by the example in the Letters Patent which speaks of any institution which provides the means through which adults have contact with children. The family is excluded from the definition of institution.

I shall return to the scope of our inquiries in a moment.

When I spoke at the Commission's Melbourne hearing in April I referred to the many inquiries in Australia which have previously dealt with the sexual abuse of children and related issues. By appointing the Royal Commission all Australian governments joined together in responding to continuing anxiety in the community about these issues.

It is now well known that the sexual abuse of children has been widespread in the Australian community. However, the full range of institutions in which it has occurred is not generally understood. Furthermore, the character and effectiveness of the response to allegations of abuse by institutions in which it has occurred has not generally been exposed. The prosecution of a perpetrator who has abused a child within an institution brings the existence of the abuse

to public knowledge but does not, in most cases, tell the community anything about the response of the institution in which the abuse occurred.

Furthermore, although many recommendations have been made as to how institutions should be managed to minimise the sexual abuse of children and effectively respond to it when it has occurred, it is readily apparent that many of those issues require a coordinated national response.

I mentioned previously the breadth of the task facing the Royal Commission.

As you know in order to assist us in our work the Australian Parliament amended the *Royal Commissions Act* to allow the Commission to hear from victims in private sessions. This followed a similar provision to facilitate the gathering of information in private as part of the Ryan Commission into similar problems in Ireland. It means that the Commission can receive the personal stories of people in private and in circumstances where they feel secure and not threatened by having to confront their alleged abuser. Although the Act provides that information obtained by the Royal Commission in private sessions is not evidence, it may be included in a report if it is “de-identified”, that is, the anonymity of the person is preserved.

The process of gathering material at private sessions poses significant logistical difficulties and resource issues for the Commission. As you are aware the Commission is in various ways attempting to ensure that all persons who wish to give an account of their alleged sexual abuse are able and encouraged to make contact with it. We are grateful to the media for the part it has played in helping us disseminate the Commission's message, in particular telling people about private sessions. It is important that I again emphasise that in order to respond to those who contact us we have set up a telephone service which is staffed by people trained in relevant disciplines to answer the calls and others who speak with the person and assess whether it is appropriate for the person to come to a private session. If appropriate a caller will also be offered the name of a counsellor who will be able to assist people in need of psychological care.

Each private session requires one or two Commissioners to be present. We also need two Commission staff to carry out the necessary organisational tasks, including making a recording of the session. We must also have a trained counsellor present to provide support for anyone in need and ensure that, if required, they are referred to another service capable of providing the person with ongoing support.

When we first started planning for private sessions we took advice from a psychiatrist. We were told that it would be likely that an individual would require 1 to 1½ hours to tell their story and because of the need to safeguard the health of Commissioners and staff, it would only be possible for a Commissioner to hear four stories in one day. We were also advised that it would not be appropriate, bearing in mind the risk to a Commissioner's health that a Commissioner sit for five continuous days in any week.

Experience has shown that this advice was sound. Although some people are able to give an account of their abuse in a logical and calm manner many are not. Many people who have come to the Commission have suffered greatly both at the time the abuse occurred and subsequently. Many have received counselling at various stages of their lives, many have thought of suicide and some have attempted it. Many people, including those who suffered abuse thirty or forty years ago, break down in the course of telling their story and require the assistance of support persons to be able to continue. The recounting of those stories is both traumatic for the persons telling the story and stressful for the Commissioner receiving it.

The Commission has at 13 September received 4,301 phone calls relevant to allegations of abuse. Not all of these people require a private session and some callers fall outside our Terms of Reference. For example we have not been asked to look at familial abuse.

The Commission has now been able to conduct private sessions in Sydney, Brisbane, Adelaide, Perth, Canberra and Melbourne. At 13 September 398 persons have told a Commissioner their story. At that date there were 449 waiting to tell us their story. A further 1178 persons have yet to be assessed for a private session. We receive an average of 22 new callers per day and we expect that at least 10 of them will require a private session. I expect that rate to increase once public hearings start and survivors learn more about what we are doing.

Many people will be hesitant about coming forward until they are satisfied that they can trust the Commission's processes. Because the Commission is permanently located in Sydney private sessions can take place at our city premises whenever a Commissioner is available and it is convenient for a

person to come and tell their story. In other cities forward arrangements have to be made. The logistical difficulties have meant that until recently it has not been possible to organise private sessions out of Sydney in more than one place at any one time. However, now that the Commission has adequate staff to assist in organising the sessions and the process of private sessions has, with experience, been refined I am now able to authorise Commissioners to sit in different places at the same time. This will continue throughout the life of the Commission. The availability of Commissioners for private sessions will also depend upon the demand for Commissioners to sit in public hearings.

Although I anticipate that a great many more private sessions will occur before the Commission's work is complete, some preliminary themes are emerging. It is apparent that where an organisation lacks an appropriate culture and there are not appropriate practices and training of staff within the organisation, there is a risk that sexual abuse will occur. In some institutions there may be only one perpetrator. In others there will be multiple abusers and many children may be abused. It is reported to us that when it occurs in residential institutions sexual abuse is almost always accompanied by almost unbelievable levels of physical violence inflicted on the children by the adults who had

responsibility for their welfare. Many of the stories we are hearing will shock people.

It is also clear that the damage to an individual, be it a boy or girl, who is abused at a time when, because of their age, they are unable to resist an abuser or report the abuse to others, may be life changing. It is common that a person who has been abused in a school setting, but this may occur elsewhere, will experience significant difficulties in being able to concentrate on school work compromising the development of the skills necessary to obtain employment and establish appropriate familial and broader social relationships. They lose faith in their teachers and in the school and may come to feel alienated from their friends and family. What many may consider to be low levels of abuse of boys and girls can have catastrophic consequences for them, leading to a life which is seriously compromised from what it might otherwise have been. Both boys and girls are left with a distrust of adults and difficulties with intimacy. Inappropriate touching of boys may leave them with confusion as to their sexual identity. This can result in lifelong difficulty in relationships which can cause problems in other aspects of their lives.

Although the impact on the lives of abused persons has been reported within the academic literature I have no doubt that it is not well understood by the

general community. In my role as a judge I have been called upon to review many of the sentences imposed upon people convicted of the sexual abuse of children but I readily acknowledge that, until I began my work with the Commission, I did not adequately appreciate the devastating and long lasting affect which sexual abuse however inflicted can have on an individual's life.

It is apparent from the work we have undertaken to date that it will not be possible within any reasonable time frame for the Commission to be able to investigate, hold public hearings and make findings in relation to every institution where there are allegations that children have been sexually abused. We will have to be selective. To make the best use of our resources we have determined to devote public hearings to systemic issues and policy matters. However, where we find evidence of a significant cluster of abused individuals, we may conduct a public hearing into that institution. It may also be that some individual institutions form part of a group of institutions which are themselves part of larger organisational structures which may contain a concentration of alleged individual abusers and systemic issues which we should examine in a public hearing. In order to enable Australians to understand what has been occurring and its potentially devastating

consequences for abused persons we will, where the person agrees, also publicly tell the story of some individuals.

In a moment Ms Furness will outline the program she proposes for the public hearings which will be held between now and Christmas. There are many others under consideration and the list will continue to grow as we receive more information and carry out investigations.

Apart from the matters which will be the subject of public hearings the Commission has initiated a program of research which will be conducted both by Commission staff and consultants commissioned for this purpose. Various issues will be examined. Each area of research has been identified because of its significance to future efforts to minimise the sexual abuse of children within institutions. The research process will be assisted by the publication of Issues Papers. Four have already been published. They are:

1. Working with Children.
2. Towards Healing.
3. Child Safe Institutions.
4. Preventing Sexual Abuse of Children in out of home care.

We will also invite submissions from members of the community and bring together round tables where there may be an exchange of ideas. Evidence of problems which have been discussed in public hearings or information obtained in private sessions will play an important part in the Commission's consideration of systemic and policy issues.

The Commission has already commenced work on the preparation of the Interim Report which must be provided to government by 30 June next year. That report will contain an account of various private sessions with the survivors appropriately de-identified as required by the legislation. We will also report conclusions from any public hearings that have been completed. If appropriate any lessons learned from public hearings, round tables and the research program will also be reported at that time.

It is too early in the Commission's work to be able to predict how long may be required for us to complete the task given to us by government. However, as our work moves forward the comments made by various persons when the

Royal Commission was announced about the large size of the Commission's task seem accurate.

Public hearings of the Royal Commission allow counsel assisting to bring evidence before the Commission and provide the opportunity for persons or institutions to appear to assist the Commission in understanding their perspective of relevant matters. Although the accommodation for the public to view the proceedings is necessarily limited, conscious of the widespread interest in our work arrangements have been made to webcast the proceedings. Although when it is necessary to protect an individual the broadcast of the proceedings may have to be interrupted or images modified, so far as possible all of the proceedings will, by this means, be available to the public throughout Australia. The Commissioners trust that this will enable more people to understand the Commission's work and appreciate the reasons for the conclusions and recommendations we ultimately provide to government.
