



# LANIGAN HOUSE REVIEW

An independent review of the processes surrounding  
the decision by the Archdiocese of Canberra and  
Goulburn to place a priest with sustained findings of  
inappropriate behaviour into Lanigan House

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## Key Terms

<b>Term</b>	<b>Meaning</b>
Administrator of the Archdiocese	The person with responsibility for the Archdiocese following the departure of one Archbishop and before the appointment of the next Archbishop
Archbishop	Archbishop to the Archdiocese
Archdiocesan Consultors	A small group of priests which meets with the Archbishop four times a year in a consultative role to assist him in his governance. The body arises from the Council of Priests (another, broader consultative body).
Archdiocese	Catholic Archdiocese of Canberra and Goulburn. The term is used in this Report to refer, in particular, to the body of people which administers and oversees the Archdiocese, including the Archbishop, the Chancellor, the Vicar General, the Financial Administrator, the Professional Standards Officer and IPSS
Clergy Retirement Foundation	The Clergy Retirement Foundation finds retired priests suitable accommodation and supports them in their retirement. It is run by a 9-person committee comprised of four priests and three lay people.
Director of Catholic Education	Director of Catholic Education for the Archdiocese
Episcopal Council	A group of four or five senior persons in the Archdiocese which meets weekly and addresses matters resulting from the Council of Priests and/or Consultors, or matters arising in the interim and requiring attention
IPSS	Institute for Professional Standards and Safeguarding, a unit within the Archdiocese
Lanigan House	A residence for retired priests located adjacent to Sts Peter and Paul Primary School in Garran
Malkara School	An ACT public school providing education to students with a significant intellectual disability and other associated impairments
The Priest	The priest who was moved to Lanigan House and against whom findings of inappropriate conduct were made in an Archdiocesan investigation
Professional Standards Officer	An employee of the Archdiocese responsible for professional standards. This position was abolished when IPSS was established in October 2015
Sts Peter and Paul Primary School	A Catholic primary school adjacent to Lanigan House

## Preliminary: Scope and Conduct of Review

### Subject of Review

1. This review concerns a decision of the Archdiocese to place a priest who had engaged in inappropriate behaviour with children into Lanigan House. Lanigan House is a facility for retired priests which is located in close proximity to two schools.
2. I have decided not to name the priest in this review, even though his name has been made public, but instead to refer to him simply as “the Priest”. My reason for doing so is that the focus of the review is not on the Priest’s identity or conduct, but rather upon the ways in which the Archdiocese made decisions concerning his residence. It is in keeping with the terms of reference for the review to minimise any unnecessary adverse comment concerning individuals, and to concentrate instead upon the policies and procedures of the Archdiocese.
3. The purpose of this review is to consider how the policies, processes and practices of the Archdiocese operated in respect of the decision to place the Priest into Lanigan House, and to consider the subsequent management of that decision and of the community response to it. The purpose of the recommendations contained in the review is to ensure that a better decision-making framework is put in place for the future.

### Appointment of Independent Reviewer

4. Jane Seymour was appointed as the independent reviewer to conduct the Lanigan House Review in March 2017. At the time, Ms Seymour was a barrister specialising in employment and workplace relations law. She was involved in drafting the original and the revised terms of reference and the methodology for the review.
5. In early April 2017, Ms Seymour withdrew from her role as independent reviewer, due to her appointment as a Commissioner of the New South Wales Industrial Relations Commission. I was appointed to replace Ms Seymour as independent reviewer when she resigned. A short statement of my experience is provided at Appendix D.
6. At the time I was appointed, no interviews had been conducted. Ms Seymour had received some unsolicited emails from members of the public who wished to contribute to the review. She provided me with a copy of those emails.

### Conduct of Review

7. The review has been conducted in accordance with the revised Terms of Reference, dated 5 April 2017, which are reproduced at Appendix A, and in accordance with the Methodology for the review, which is reproduced at Appendix B.

8. The Archdiocese identified the key stakeholders in the decision to move the Priest to Lanigan House, and selected and invited persons to be interviewed. Participation in interviews was voluntary and not all persons who were invited to be interviewed chose to participate. I interviewed persons from the Archdiocese, the Archdiocesan Consultors, the Catholic Education Office, the staff of Sts Peters and Paul Primary School, parents from the School Council of Sts Peters and Paul Primary School, staff of Malkara School, and persons representing IPSS, the ACT Education Directorate and the Clergy Retirement Foundation.
9. All interviewees signed an interview protocol which is reproduced at Appendix C.
10. I conducted interviews with participants in Canberra on 10, 11 and 12 April 2017 and on 3 May 2017. I made typed notes of the interviews which I sent to the interviewees for their review and amendment. The amended records of interview have been provided to the Archdiocese for its records in accordance with the Methodology and the interview protocols.
11. I also had regard to unsolicited material sent to me or to Jane Seymour, including by members of the Catholic community and parents at the affected schools. One person who had been invited to be interviewed chose to send me a written statement instead, on a confidential basis. I have kept that statement confidential and have not provided it to the Archdiocese, but have taken the statement into account.
12. The Archdiocese provided me with its relevant files, which I have reviewed. The Archdiocese also cooperated in providing me with additional documents, when requested.

## Chapter 1: The Facts

- 1.1 This chapter summarises the facts surrounding the decision to move the Priest to Lanigan House and the ensuing controversy, as I have ascertained them from the documentary evidence and from the interviews I conducted.
- 1.2 I generally did not “test” the information provided to me in interviews through asking participants questions about any apparent inconsistencies. Rather, I allowed participants to provide me with their perspectives on the events as they occurred. When writing the report, I became aware that there were some differences of opinion, especially about how much information was communicated to whom and at what point. That is not of great significance for this review, which is focused upon the Archdiocese’s policies and procedures, other than insofar as it has implications for policies concerning communications with stakeholders.
- 1.3 The facts, as I have set them out below, are provided as context for understanding the Archdiocese’s practices and processes as they affected the decision to move the Priest to Lanigan House, and its response to the public outcry about the decision. Whilst I have tried to avoid inaccuracies as far as possible, it is possible that my account does not reflect everybody’s understanding of the relevant events. To the extent that I have inadvertently made any factual errors, I apologise to those concerned.

### Investigation into conduct of priest

- 1.4 The Priest had been the parish priest of a country town in New South Wales in the Archdiocese since 1990.
- 1.5 In February 2013, the Professional Standards Officer of the Archdiocese commenced an investigation into two historical allegations about the Priest’s conduct in the parish.
- 1.6 These allegations have since been made public. The Archdiocese opposed the publication of the allegations against the Priest and had no part in that publication.
- 1.7 The first allegation against the Priest was that he had engaged in a pattern of behaviour towards a girl of 16 years of age that crossed appropriate professional boundaries in that it was overly personal and intimate. The alleged behaviour included embracing the girl in public on multiple occasions and kissing her on the cheek or the back of the head in church.
- 1.8 The second allegation was that the Priest had touched a girl of eleven or twelve years of age in a manner that was unwarranted, inappropriate and overtly sexual. This alleged behaviour included putting his arms around the girl from behind and nibbling her ear when alone with her in a church.
- 1.9 Neither of the alleged victims wished to press charges against the Priest.

- 1.10 It became apparent, early in the investigation, that children from the nearby Catholic school in the Priest's parish visited the presbytery during school hours unaccompanied and that the Priest gave them lollies from a jar near the door in his office.
- 1.11 On about 19 March 2013, at the invitation of the Professional Standards Officer, an employee in the Catholic Education Office completed a risk assessment on a template used by Catholic Education and provided it to the principal of the Catholic school in the town of the Priest's parish. This stated that students were at risk if they went to the presbytery without an accompanying teacher. The Director of Catholic Education was made aware of the risk assessment. The risk addressed was the risk of children going to the presbytery unaccompanied. The risk assessment also mentioned "inappropriate touching with students hugging the Priest."
- 1.12 On 22 March 2013, the Professional Standards Officer recommended to the Administrator of the Archdiocese that an assessment of whether the Priest presented an unacceptable risk to children in his current role be conducted by the Professional Standards Officer. He also recommended that the Administrator agree to an Initial Investigation Plan. These recommendations were accepted.
- 1.13 On 9 April 2013, the Professional Standards Officer visited the Catholic school in the town of the Priest's parish and spoke to the principal of the school. It appears that the principal was made aware of the allegations against the Priest, at least to some extent. Further investigations took place over the course of the year.
- 1.14 On 12 September 2013, Christopher Prowse was appointed as Archbishop.
- 1.15 On 11 December 2013, the Archbishop advised the Priest that an investigation into the historical complaints against him, under Part 3A of the *Ombudsman Act 1974* (NSW), was being conducted.
- 1.16 On 21 March 2014, the Professional Standards Officer of the Archdiocese provided a detailed report which assessed the historical complaints against the Priest, set out above, and found that these allegations were sustained. The report recommended that the Archbishop accept the findings, that a risk assessment be conducted as to whether the Priest presented an unacceptable risk to children and that he be stood aside whilst the risk assessment was conducted.

#### Decision to move Priest from Parish to Lanigan House

- 1.17 A decision about removing a priest from his parish to a facility such as Lanigan House, on a temporary or permanent basis, is ultimately that of the Archbishop. However, in early 2014, the Archbishop had a number of sources of advice in relation to decisions concerning the Priest, including the Archdiocesan

Consultors and the Episcopal Council and, in relation to professional standards matters, the Professional Standards Officer. At this time, the membership of the Episcopal Council consisted of the Archbishop, the Vicar General, the Chancellor, the Archdiocesan Financial Administrator and, on a periodic basis, the head of one of the Archdiocesan Agencies.

- 1.18 On 1 April 2014, a meeting was held between the Archbishop, the Vicar General, the Chancellor, the Professional Standards Officer and the Priest, as a result of the March 2014 report. The Archbishop told the Priest that he required him to move out of his parish and to take leave from his duties while an investigation took place. The Archbishop handed the Priest a decree to formally initiate the canonical process for removing a parish priest. The decree stated that a risk assessment was required before the Priest was to exercise any public ministry and that his faculties were to be modified in the mean time.
- 1.19 It was proposed during that meeting that the Priest consider living at the retirement facility at Lanigan House whilst the investigative processes unfolded. At the time, the Priest was 77 years old and had some health problems.
- 1.20 Lanigan House is a former presbytery located adjacent to St Peters and Paul Primary School in Garran and also close to Malkara School. Following a bequest in 2012, it was refurbished and now provides four independent living units for retired priests. It is not far from Canberra Hospital and there is a registered nurse who attends the facility and assists the priests.
- 1.21 The Clergy Retirement Foundation assisted in the relocation of the Priest to Lanigan House and in his care once he was installed there. That move had occurred by 10 April 2014. The Archdiocese did not communicate to the Foundation the reasons for moving the Priest to Lanigan House.
- 1.22 At a meeting of 6 June 2014, the Archdiocesan Consultors were informed that there had been a complaint of boundary violations against the Priest and that a canonical process had been commenced to remove him. They were also informed that he was residing at Lanigan House. It does not appear that there was any discussion at that meeting as to whether that accommodation was appropriate for the Priest.

#### Processes following move to Lanigan House

- 1.23 Once the canonical processes had begun, the Priest denied, through his lawyers, that he was guilty of any misconduct as regards either girl, and also said that he was denied procedural fairness in the investigation by the Professional Standards Officer. Correspondence between the Archdiocese and the Priest's lawyers was exchanged over a period of time.
- 1.24 The risk assessment contemplated by the March 2014 report of the Professional Standards Officer was not completed during this time.

- 1.25 On 4 August 2015, the Priest resigned from his position as parish priest. The Archbishop published a letter to the parishioners of the Priest's town announcing the resignation. The letter said that the Priest had cited the reasons of age, uncertain health and changed circumstances for his resignation. The letter also stated that the Priest would continue to reside in his retirement at Lanigan House.

#### Establishment of IPSS

- 1.26 The Archdiocese established IPSS in October 2015. The earlier announcement that IPSS would be created indicated that it would form part of "a governance structure that brings our survivors of sex abuse from the margins into the centre of our pastoral response."<sup>1</sup>
- 1.27 The Archdiocese's website contains the following information about IPSS:

The Institute is responsible for the development of policy, procedures, formation and education to ensure compliance with legal, civil and Church requirements for safeguarding children and vulnerable adults.

This requires the delivery of transparent management of issues and complaints. In addition, the Institute provides high-level advice to the Archbishop, clergy, key personnel and agencies in the Archdiocese, along with collaborative liaison with other Church authorities and external stakeholders including independent audit and review.<sup>2</sup>

#### IPSS risk assessment

- 1.28 On 10 April 2016, the Priest suffered a fall and was taken to hospital. He spent some time in hospital then was moved to a rehabilitation centre. He was still at the rehabilitation centre at the end of June 2016, but had been discharged from it by the end of August 2016.
- 1.29 In April 2016, whilst the Priest was in hospital, IPSS initiated a risk assessment for Lanigan House. The risk assessment concerned the risk posed by the Priest and two other priests at the facility to students and it indicated that the risk was low. It was the first risk assessment which had been conducted concerning the Priest's residence at Lanigan House.
- 1.30 On 3 May 2016, a representative from IPSS visited Sts Peter and Paul Primary School in Garran and spoke to the Principal and Deputy Principal. They were advised not to allow interaction between students and the priests in Lanigan House. There was some discussion about the Priest but this was restrained due to concerns on the part of IPSS about privacy.
- 1.31 The IPSS representative gave the principal the risk assessment.

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<sup>1</sup> Catholic Archdiocese of Canberra and Goulburn, Media Release, 9 March 2016.

<sup>2</sup> <http://cgatholic.org.au/services-directory/professional-standards/> (as at 25 May 2017).

- 1.32 IPSS did not provide the risk assessment to, or discuss it with, the Catholic Education Office. The principal and deputy principal of Sts Peter and Paul Primary School assumed that the Catholic Education Office had been informed.
- 1.33 On 26 May 2016, the Archdiocesan Consultors were informed that the local Catholic school had been advised that the Priest was in residence at Lanigan House. It was noted that a risk assessment had been conducted by IPSS and it indicated that any risk was low.

#### Publication of Story concerning Priest

- 1.34 At about 9.30am on Friday 24 February 2017, a member of the Catholic community called Sts Peter and Paul School and requested to speak to the school principal. The principal was not available. The principal spoke to the caller later that day. The caller informed the principal that the Priest was living adjacent to the school and that there were sustained allegations against him concerning children. According to an unsolicited statement provided by the caller, she had obtained this information from a friend, who had obtained it from IPSS. The caller told the principal that she was planning to take the story to *The Canberra Times*.
- 1.35 The principal informed the Catholic Education Office about the call and the caller's claim that the Priest was living next to the school and that there were sustained allegations against him concerning children.
- 1.36 On 28 February 2017, a story appeared in *The Canberra Times* entitled "Priest accused of inappropriately touching children living next to Canberra primary schools." It started with a statement that the Archbishop had moved the Priest next to two primary schools "because there was nowhere else to put him." It quoted the Archbishop as saying that "the priest was only moved to Lanigan House because there was no other accommodation available." The Archbishop was also quoted as saying, "a thorough risk assessment was conducted by staff within the Institute for Professional Standards and Safeguarding and the principal at the nearby Catholic school consulted" prior to the Priest moving to Lanigan House.

#### Response to Story concerning Priest

- 1.37 On 28 February 2017, the Archbishop issued a media release concerning the Priest. It stated that the Priest was removed following an investigation into complaints regarding inappropriate behaviour towards children. The media release stated that, as there was no other accommodation available, he was initially provided with accommodation at Lanigan House then remained there due to deterioration of his health.
- 1.38 On or shortly after 28 February 2017, the Archdiocese sought assistance from the Clergy Retirement Foundation in finding alternative accommodation for the Priest.

- 1.39 On 1 March 2017, an interview with the Archbishop was aired on ABC radio. In the interview, the Archbishop said that the principal of Sts Peter and Paul Primary School had been told about the Priest's full history. He said that a risk assessment had been done and that it showed that the Priest was a low risk. The Archbishop said that the Priest had initially been placed in Lanigan House on a temporary basis but had remained there due to his ill health. He also said that the Priest would be moved when suitable accommodation could be found.
- 1.40 On 2 March 2017, the Priest was moved to alternative accommodation.
- 1.41 The Minister for Education was interviewed on ABC Radio on 2 March 2017. She said the situation was very serious and that she was seeking an explanation. She said the first she was told of the Priest being located at Lanigan House was when it became public on 28 February 2017.
- 1.42 On the same day, IPSS issued a media statement, assuring the community that the safety of children had not been compromised through the accommodation of clergy at Lanigan House. It also stated that the Priest, along with two other priests at Lanigan House, had been relocated to appropriate alternative accommodation.
- 1.43 On the same day, the Director of Catholic Education wrote an open letter to parents and carers informing them that the Priest had been moved to a setting that is not in proximity to children or vulnerable people.
- 1.44 On 4 March 2017, an article appeared in the local newspaper for the Priest's former parish, detailing the allegations which had been sustained against him.
- 1.45 On 7 March 2017, the Director of Catholic Education wrote a letter to the Sts Peter and Paul Primary School community in which he unreservedly apologised, on behalf of Catholic Education, that "a former priest, who was removed from ministry for inappropriate behaviour towards children in NSW, was placed in Lanigan House adjacent to the school." He informed the community that the former priest had been moved from Lanigan House the previous week.
- 1.46 The Director's letter referred to the risk assessment, clarified that it contained no information about the allegations concerning the Priest and stated that the principal was instructed by IPSS not to distribute the information beyond senior staff.
- 1.47 On the same day, the Director issued a media statement concerning the risk assessment. In the media statement, he also apologised for the situation and the failure to inform parents.
- 1.48 On 16 March 2017, a Parent Forum was held at Sts Peter and Paul school in Garran. It was attended by over eighty members of the school community. The Archbishop and the Director both addressed the parent forum, which was facilitated by an external facilitator. The Archbishop apologised for moving the

Priest to Lanigan House and also apologised to the principal for having said that she had full knowledge of the allegations against the Priest.

- 1.49 On 17 March 2017, the Archbishop issued a media statement in which he accepted full responsibility for what he described as his “poor judgment” in deciding to place the Priest at Lanigan House. He apologised for the “hurt and pain” that his decision had caused. He also stated that he had decided to launch an independent review of the decision to relocate the Priest to Lanigan House.
- 1.50 On the same day, the Director was interviewed on ABC Radio about the parent forum and the decision to move the Priest to Lanigan House. The Director indicated that he was altering the arrangements in terms of the management of child protection in Catholic Education so that it would be solely the responsibility of Child Protection. He also referred to an instruction issued by IPSS to the school principal to limit the distribution of information concerning the Priest.
- 1.51 On the same day, an article appeared in *The Canberra Times* headed “Catholic Education Office ‘not told’ of risk assessment against disgraced priest.”
- 1.52 On 20 March 2017, the Director of Catholic Education issued a media release concerning the parent forum and the independent review. It stated that all matters relating to child protection concerning Catholic schools would henceforth be dealt with by Catholic Education.
- 1.53 On 31 March 2017, the local newspaper in the Priest's former parish published an article stating that the Archbishop and a representative of IPSS had visited the town on the previous Sunday and held a public meeting. It reported that the main topic of discussion at the meeting was the Priest. The Archbishop and the IPSS representative answered questions about the Priest.

## Chapter 2: Process of making decision to place and to keep Priest at Lanigan House

- 2.1 This chapter considers the process of making the initial decision to place the Priest at Lanigan House, when he was removed from his parish, and the process of making the subsequent decision that he be allowed to remain there, after he had resigned.
- 2.2 The Archbishop consulted with others within the Archdiocese about various aspects of decision-making concerning the Priest, and issues concerning the Priest were considered at a number of meetings.
- 2.3 The Episcopal Council was probably made aware of the decision to move the Priest to Lanigan House at the time the decision was made. When the Archdiocesan Consultors met several months later, they were also notified of it. However, the focus at the time of the decision was upon how to respond to the findings by the Professional Standards Officer against the Priest, in terms of removing him from the parish and deciding whether he should be removed as a Priest.
- 2.4 There was very little consideration given to where the Priest should reside. The suggestion that he should reside at Lanigan House was made at the meeting of 1 April 2014 and there appeared to the persons at that meeting to be few other options.
- 2.5 When it was proposed that the Priest move to Lanigan House, the chief considerations were that there was a vacant unit within Lanigan House, that the Priest's health was not good and that it was close to the hospital. It was considered that the allegations against the Priest were low level and historical and that he was not currently a threat to children. It appears that nobody within the Archdiocese considered that Lanigan House was near to a school or the implications this might have. The move was also considered to be a temporary measure.
- 2.6 The subsequent decision to allow the Priest to remain at Lanigan House, when he decided to retire in August 2015, was more of an acceptance of the status quo than a fully-considered decision. The Priest's decision to retire meant that the Archdiocese did not determine whether to remove him as a priest. There were thus no further findings against him. He had been living at Lanigan House for about sixteen months with no incident. It seems that nobody, at that point, turned their mind to whether his continued residence there posed any risk to children. There was, on the contrary, an assumption that it did not.
- 2.7 The minutes of the Archdiocesan Consultors of late August 2015 merely note that the Priest had recently resigned and would retire at Lanigan House. They do not suggest that there was any discussion of the decision that the Priest remain there.

- 2.8 The Archdiocese did not have, at the relevant times, any procedures or policies about accommodating a priest who had been found to have engaged in boundary violations with children, or who was suspected of having done so. The issue about the proximity of the retirement home to two schools was overlooked, because the focus was upon removing the Priest from the parish and upon the canonical process. Further, it was widely considered that there was nowhere else for him to go and that he did not pose any risk to children. For these reasons, there was little consultation or discussion about where the Priest should be housed. As it apparently did not occur to anyone for some time that placing him next to a school could be problematic, there was no consultation with Catholic Education about his placement at Lanigan House when he was first moved there or when it was decided he could remain there.
- 2.9 The issue of the proximity of the Priest's residence to the school was raised by IPSS in the risk assessment which was prepared in late April 2016. The risk assessment was provided to the archbishop. It indicated that the placement of the Priest in close proximity to the school was "not ideal" but that it was the author's understanding that "alternative living arrangements are not available."
- 2.10 The risk assessment was completed after the Priest's living arrangements had been settled upon and it does not appear that any serious consideration was given to moving the Priest at that point in time.
- 2.11 In retrospect, it is clear to all concerned that the Priest should not have been placed next to a school in the circumstances, or to have been allowed to remain there long term. The Archdiocese has publicly accepted that there was a failure to meet community expectations. In some ways, this is not something which can fully be addressed by policies, but is rather a matter of the Archdiocese being better attuned to these kind of issues and to community perceptions. One interviewee commented that there should not be a need for policies in a situation like this; rather, no priest, with sustained allegations against him concerning children, should ever be placed next to a school again.
- 2.12 It is very unlikely, given the public outcry over the Priest's residence, and the Archbishop's apology and decision to commission an independent review into the decision, that the Archdiocese would again place a priest in a similar situation near a school in the short to medium term. Nevertheless, the fact that mistakes were made in first placing, then allowing the Priest to remain, at Lanigan House indicates a deficiency in the Archdiocesan processes and policies which should be addressed.

**Finding One:**

The Archdiocese gave little, if any, consideration to the circumstance that Lanigan House is adjacent to a school when the Priest was first moved there and when it was decided that he could remain there in his retirement.

**Finding Two:**

When a risk assessment identified in 2016 that it was not ideal to house the Priest next to a school, the main impediment to moving him was the unavailability, or perceived unavailability, of suitable alternative accommodation.

**Finding Three:**

The decision-making processes of the Archdiocese did not provide for any community consultation, or consultation with affected Catholic agencies, in relation to the making of the decisions to house the Priest in a location next to a school.

**Finding Four:**

The Archdiocese did not have any policies concerning the accommodation of priests the subject of adverse findings concerning children.

**Finding Five:**

The absence of policies concerning the accommodation of priests, and the lack of procedures for any consultation with stakeholders in Archdiocesan decisions which directly affected them, contributed to the decision to move the Priest to a residence next to a school.

## Discussion and Recommendations

- 2.13 It is notable that almost all the persons who were consulted or informed about the Priest's move to Lanigan House when it first occurred were priests. The Professional Standards Officer was not a priest, but did not know where Lanigan House was at the time. There was thus no community input into the decision-making, and no female input into the decision-making. The lack of consultation was a factor which contributed to the making of a decision which was so out of keeping with community standards.
- 2.14 To some extent, the situation has now changed. At the time that the Priest was moved to Lanigan House, the financial administrator of the Archdiocese, who is a woman, generally did not participate in those parts of the Episcopal Council meetings which involved matters concerning the conduct of priests. Now, she generally participates in the entire meeting. Further, the position of chancellor is now filled by a lay person. This means that there is now more lay and female involvement in Archdiocesan decision-making and that a broader range of

perspectives will likely be brought to bear upon significant decisions. However, this is not a complete answer to the problem that the policy and procedures of the Archdiocese made no provision for community perspectives to be taken into account where decisions impacted the community.

#### Advisory Panel

- 2.15 It would be of benefit to the Archdiocese to have an advisory panel, drawn from the community and Catholic agencies, to provide advice concerning professional standards matters generally, and matters where allegations have been made against a priest in particular. A strength of such a panel would be that it would enable Archdiocesan decision-making to better take account of community standards and expectations, and decisions would also be informed by a broader knowledge base.
- 2.16 If an advisory panel had been in place in 2014, and had been consulted about the Archdiocese's response to the findings against the Priest in that year, it is likely that a number of consequences would have followed. First, a member of the panel would probably have raised the issue about Lanigan House being next to a school and this issue of moving the Priest there would have then been discussed and considered. Secondly, if Catholic Education had been represented on the panel, it is highly likely that it would have voiced opposition to the Priest living at Lanigan House. This would have enabled the issue to be addressed at a much earlier stage, possibly before the Priest was moved there. Thirdly, if parent representatives had been included on the panel, they would have been able to express their perspective about the proposed move, and the Archdiocese would have been better informed about the widespread opposition to the idea. Finally, if it had been decided to move the Priest to Lanigan House despite opposition, there could have been a discussion about what to say about this to the broader community and what steps, if any, could be taken to address any risks.
- 2.17 Recommendations concerning the formation of an advisory panel are included in Chapter Five.

#### Policy concerning accommodation

- 2.18 The difficulties surrounding the accommodation of the Priest point to a need for a policy concerning the accommodation of priests who are subject to adverse allegations or findings concerning children, and probably extending to those who are subject to other adverse allegations or findings. A policy could deal with matters such as at the point at which a priest should be moved to a location away from children when allegations are made against him. Allegations may, of course, be unfounded. Some minor boundary violations may not be considered to justify moving a priest away from children. These are matters which could be set out in a draft policy. The draft policy could also deal with the location of any residence for such a priest in terms of its proximity to vulnerable people. That draft policy could then be made subject to consultation

before being finalised. This would provide a clear guide to action where complex issues arise in the future.

- 2.19 A related issue the Church is likely to face is where to house priests who have been convicted of offences against children, then released from gaol. Both New South Wales and the Australian Capital Territory have legislation authorising courts to make orders, in certain circumstances, prohibiting certain convicted sex offenders from being in specified locations and, in the ACT, living at a stated kind of premises or stated place.<sup>3</sup> However, these orders are not made in all cases and do not apply to all sex offenders. The Church may have to make decisions about housing priests who have served time for sex offences but who are not subject to such orders.
- 2.20 The Archbishop has a responsibility to look after his brother priests, irrespective of their conduct or their crimes. One possibility would be to adopt the approach which I understand has been adopted in Melbourne, which is for disgraced priests to rent property on the private market and not to live in Church property. Even then, however, restrictions may need to be placed around the proximity of those properties to schools and other institutions for vulnerable people.
- 2.21 A policy should be developed, in consultation with the community and Catholic agencies, as to the accommodation of priests who are subject to adverse allegations or adverse findings concerning children.

#### Identification of suitable properties

- 2.22 One of the factors influencing the choice of accommodation for the Priest in this case was the perception that there was nowhere else for him to go. This appears to have influenced the initial decision to move him to Lanigan House and the later decision that he could remain there. Further, when IPSS conducted a risk assessment in April 2016, the view which had apparently been communicated to IPSS was “that alternative living arrangements are not available.” This position was reiterated in the media when the Priest’s residence became public. The explanation that the Priest was located next to a school due to a lack of other options did not reflect well on the Archdiocese.
- 2.23 It is thus critical that the Archdiocese identify suitable properties for priests who are found to have acted inappropriately towards children, which may be accessed at short notice.
- 2.24 Options might include identifying an area or areas with suitable accommodation for rental, identifying properties that are owned by the archdiocese which are not in close proximity to a school or other institutions for vulnerable people, or finding appropriate properties for purchase. The potential properties should

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<sup>3</sup> *Child Protection (Offenders Prohibition Orders) Act 2004* (NSW), ss 5, 8(1); *Crimes (Child Sex Offenders) Act 2005* (ACT), ss 132D, 132F.

include properties suitable for older priests, who may have medical issues or other issues commonly faced by older people. The Archdiocese should also investigate aged care facilities and identify facilities which are suitable for retired priests who have been subject to adverse findings concerning their conduct with children (for example, facilities which are not proximate to a school and which do not have regular school visits).

- 2.25 The Archdiocese should maintain a list of suitable properties, or suitable areas in which a priest may be accommodated in rental accommodation. This should be checked and updated annually to ensure that the properties remain appropriate.

**Recommendation One:**

That the Archdiocese develop a policy, in consultation with the community and Catholic agencies, concerning the accommodation of priests who are subject to adverse allegations or adverse findings concerning children.

**Recommendation Two:**

That the Archdiocese identify suitable properties for the accommodation of priests who have been subject to adverse allegations or findings concerning children, and maintain a list of suitable properties, or suitable areas in which such priests may be accommodated in rental accommodation, to be reviewed annually.

## Chapter 3: Risk assessment

- 3.1 This chapter is concerned with the suitability of the risk assessment tools used in relation to the decision that the Priest reside at Lanigan House and with the need for policies concerning risk assessments.

### Risk assessments concerning the Priest

- 3.2 The facts concerning the undertaking of risk assessments are set out in Chapter One. However, it is convenient to review them in greater detail here, so as to consider in one place the adequacy of processes for making and acting upon risk assessments.
- 3.3 A risk assessment was completed in March 2013 for the Catholic Education Office concerning the risk to students in the Priest's parish. The risks identified concerned students visiting the presbytery unattended during the school day and students hugging the Priest. The Archdiocese was aware of this risk assessment. The practice of students of the parish school visiting the presbytery was stopped as a result.
- 3.4 The Archdiocesan Professional Standards Officer obtained approval from the Administrator of the Archdiocese in March or April 2013 to conduct an assessment of the Priest's risk to children, and to carry out an investigation into the conduct of the Priest. A detailed investigation was then carried out, and interviews conducted with the complainants, the Priest and others.
- 3.5 The Professional Standards Officer completed a detailed report into complaints against the Priest in March 2014 ("the 2014 Report"), finding two allegations to be sustained. This report did not assess whether the Priest posed a risk to children.
- 3.6 The 2014 Report recommended that a risk assessment be conducted as to whether the Priest presented an unacceptable risk to children and that he be stood aside whilst that risk assessment was conducted. That recommendation was accepted.
- 3.7 It appears that, after the canonical process commenced in April 2014 to determine whether to remove the Priest from his pastoral office, the risk assessment was not undertaken.
- 3.8 The Priest retired to Lanigan House in August 2015, and was hospitalised in April 2016 following a fall. In the same month, IPSS conducted a risk assessment. The risk assessment analysed risks in a number of categories:
  - a. Risk to the student(s)/child(ren) Involved/ Support for the Student(s)/Child(ren)
  - b. Risk to other Children or Vulnerable People in the Workplace/School
  - c. Risk to the Person who is the Subject of the Complaint (PSOC)

- d. Risk to Other Church Workers
  - e. Risk to Confidentiality
  - f. Risk to the Community/School
  - g. Risk to the Complaint Process
  - h. Other risks.
- 3.9 As to the first category of risk, the risk assessment found that there was a “potential risk to children” posed by the three priests living in close proximity to the school. However, it found that the risk to children or students posed by the Priest, who was in hospital at the time, was “extremely low.” It noted that the risk should be assessed again when the Priest returned to Lanigan House.
- 3.10 As for the fifth category, risk to confidentiality, the risk assessment stated that concerns concerning the confidentiality of the priests residing at Lanigan House had been addressed “by limiting the name of the three priests to the Principal [of Sts Peters and Paul Primary School] and the leadership team” but that the staff would be “briefed in general terms and asked to be vigilant to the rules for visitors with priests.”
- 3.11 The risk assessment recorded, in relation to the risk to the community or school, that the placement of the three men at Lanigan House, in close proximity to the school, was “not ideal,” but that it was the understanding of the author of the risk analysis “that alternative living arrangements are not available.” However, the risk assessment recommended that, if alternative arrangements were available, “they should be considered by the Archdiocese.” It also stated that the Principal of Sts Peter and Paul Primary School would be made aware of the fact that the priests were living in close proximity to the School and that she would be asked to share the names of the priests with the leadership team.
- 3.12 As can be seen from the categories above, the risk assessment did not address any risk to the Church’s reputation, or to its relationship with its parishioners or with the parents of Sts Peter and Paul Primary School. Nor did it identify any risks of failure to comply with legal obligations, such as a duty of care to children at the Catholic school. The risks to reputation and to the Archdiocese’s relationships with others were very real, as transpired when the Priest’s residence at Lanigan House became public. Whilst the risks of adverse legal consequences never materialised, it would have been prudent to address and consider them.
- 3.13 No further risk assessment was completed after the Priest returned from hospital to Lanigan House.

## Policies concerning risk assessments

- 3.14 The Archdiocese did not have a policy concerning risk assessments at the relevant times (February 2013 to February 2017). Nor was there any standard template for the carrying out of a risk assessment. The template which was used in April 2016 was adapted from the template used by Catholic Education.
- 3.15 There were no practices or procedures governing the timing of risk assessments (that is, how quickly a risk assessment was to be completed initially, what events triggered the need for a risk assessment and how often it needed to be updated during an investigation or otherwise).
- 3.16 There was no formal procedure within the Archdiocese for determining what action should be taken as a result of a risk assessment. Whilst the risk assessment undertaken in April 2016 was provided to the principal of Sts Peter and Paul Primary School, and also to the Archbishop, there were no processes in place for determining how to respond to it within the Archdiocese or for monitoring any changes in the identified risks.
- 3.17 Had there been a process requiring a consideration of and response to the risk assessment at a meeting, for example, this would have resulted in the issue of the need for alternative accommodation being considered and dealt with in a transparent manner. More systematic procedures to deal with risks may also have resulted in the carrying out of a further risk assessment, once the Priest returned to Lanigan House.
- 3.18 The lack of a policy concerning the required frequency of risk assessments meant that, from March 2013 until April 2016, the only risk assessment the Archdiocese had concerning the Priest was one completed by an officer of Catholic Education which focused upon children at the parish school visiting the presbytery. The Archdiocese's knowledge concerning the Priest's risk to children altered significantly in that time. The report of the Professional Standards Officer in April 2014 provided the Archdiocese with detailed information about the allegations against the Priest and his response to them. Further, the Priest's circumstances changed significantly when the allegations against the Priest were sustained and he was moved to Lanigan House.
- 3.19 A risk assessment should have been undertaken by the Archdiocese during 2013, then updated when findings against the Priest were made in March 2014, then updated again when the Priest was moved to Lanigan House in April 2014, reflecting the changed circumstances.
- 3.20 The risk the Priest posed to children was probably considered informally at various times from March 2013 onwards, and it was generally thought by persons within the Archdiocese that he did not pose a risk to children. This conclusion was supported by his age and ill health and the circumstance that the sustained allegations involved boundary violations and were low level. However, there was clearly a need for a risk assessment, given that the Priest's

boundary violations involved children. This was recognised by the Professional Standards Officer seeking and obtaining approval for a risk assessment to be conducted on two occasions, in April 2013 and in March 2014. The need for a further risk assessment, when the Priest returned from hospital to Lanigan House in 2016, was also recognised in April 2016, yet none of these proposed risk assessments were carried out.

- 3.21 There is no evidence to suggest that the Archdiocese had regard to the current Australian/New Zealand standard for risk management, AS/NZS ISO 31000:2009, "Risk management—Principles and guidelines," when considering and managing the risks posed by the Priest.

**Finding Six:**

The Archdiocese did not have any policies or procedures concerning the assessment or management of risks generally, or the assessment or management of risks to children in particular.

**Finding Seven:**

The Archdiocese carried out an inadequate number of assessments of the risks posed by the Priest and did not have a process for identifying when a risk assessment was needed. As a result, the Archdiocese did not, in a thorough and transparent manner, assess the Priest's risk to children as circumstances changed.

**Finding Eight:**

The risk assessment tool used by IPSS in April 2016 was deficient in that it did not identify reputational or legal risks to the Archdiocese.

**Finding Nine:**

The Archdiocese did not have any formal processes for considering, addressing and monitoring identified risks.

## Recommendations

- 3.22 There is a need for the Archdiocese to develop a comprehensive risk management policy which deals with, amongst other things, risks to children posed by priests. This should be informed by the Australian/New Zealand standard for risk management, AS/NZS ISO 31000:2009, "Risk management—Principles and guidelines."
- 3.23 The risk management policy should address factors including:

- a. who is required to report risks;
  - b. what risks are required to be reported;
  - c. when risks are to be reported;
  - d. how risk assessments are to be used and what form they should take;
  - e. how frequently risk assessments need to be conducted in what circumstances;
  - f. the agencies or other persons who are to be consulted about risks when making a risk assessment;
  - g. the persons and agencies with whom risk assessments, or some information about risk assessments, are to be shared; and
  - h. the responsibilities and accountabilities for risk management.
- 3.24 The tools the Archdiocese uses for conducting risk assessments should also be revised. I understand that a new risk assessment template is currently being developed. In addition to risks to children, the new template should address reputational risks, relational risks (that is, risks to relationships with internal and external stakeholders) and legal risks.
- 3.25 A key factor in the success of future risk assessments will be a process for considering, responding to and monitoring identified risks by a committee or office holder in the Archdiocese.
- 3.26 It is important that the risk management policy be transparent and available to the public. One of the concerns expressed about the risk assessment conducted by IPSS in 2016 was the lack of communication about it. This criticism extended not only to the content of the risk assessment, but also a perception that the risk assessment was not compliant with international standards and that there was no available information about the risk management process.
- 3.27 It would be desirable, therefore, for the Archdiocese to make its risk management policy publicly available and to consider publishing its risk assessment template as well.

**Recommendation Three:**

That the Archdiocese develop a comprehensive risk management policy informed by the Australian/New Zealand standard for risk management, AS/NZS ISO 31000:2009, "Risk management—Principles and guidelines."

**Recommendation Four:**

That the risk management policy address the circumstances in which risk assessments are to be conducted, the frequency with which they are to be reviewed or updated, the stakeholders who are to be consulted about and/or informed of risk assessments and the responsibilities and accountabilities for risk management within the Archdiocese.

**Recommendation Five:**

That the Archdiocese publish its risk management policy on its website and that it consider publishing its risk assessment template on its website.

**Recommendation Six:**

That the Archdiocese develop a new risk assessment template which continues to address risks to children, but also addresses reputational, relational and legal risks to the Archdiocese.

**Recommendation Seven:**

That the Archdiocese establish a transparent procedure for determining what actions the Archdiocese needs to take to address and monitor identified risks.

## Chapter 4: Key legislation relied upon concerning distribution of information

- 4.1 This chapter concerns the legislation which was relied upon when decisions were made about the distribution of information concerning the Priest and the extent to which the policies and practices of the Archdiocese facilitated the lawful distribution of such information.
- 4.2 The legislation which was relied upon when decisions were made about the distribution of information were the *Ombudsman Act 1974* (NSW) and the *Privacy Act 1988* (Cth).
- 4.3 The *Ombudsman Act* contains some provisions concerning the persons to whom investigations under that Act and actions taken in response to such investigations, may be communicated.<sup>4</sup> The Professional Standards Officer and IPSS relied upon this Act to the extent that it was considered that the Act prohibited the sharing of information about investigations conducted under the Act, except to a child who is the subject of the alleged conduct under investigation, the child's parents and certain others. In fact, the Act permits the sharing of information with these people, and does not otherwise prohibit the disclosure of information by private entities in the circumstances of the Archdiocese.
- 4.4 The *Privacy Act* prohibits the disclosure and use of personal information, for a purpose other than that for which the information was collected, by certain private entities with an annual turnover of over \$3 million.<sup>5</sup> "Personal information" is very broad, meaning "information or an opinion about an identified individual, or an individual who is reasonably identifiable."<sup>6</sup> There are certain exceptions to the prohibitions against disclosure and use of personal information (for example, where the entity has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the entity's functions or activities has been, is being or may be engaged in).<sup>7</sup>
- 4.5 There did not appear to be a widespread or in-depth understanding of the Church's obligations under the privacy legislation amongst the persons in the Archdiocese responsible for handling information concerning the Priest. Rather, it appears that those people generally took the view that they were precluded, by the *Privacy Act*, from sharing any adverse information about the Priest which had not been made public.
- 4.6 The extent to which the *Privacy Act* restricts the communication of matters concerning persons who may pose a risk to children was a theme in the

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<sup>4</sup> See, in particular, *Ombudsman Act 1974* (NSW), s 25GA. See also s 25H.

<sup>5</sup> *Privacy Act 1988* (Cth), s 6C(1) (definition of "organisation") and s 6D (definitions of "small business" and "small business operator"); Sch 1, Australian Privacy Principle 6.

<sup>6</sup> *Privacy Act 1988* (Cth), s 6(1).

<sup>7</sup> *Privacy Act 1988* (Cth), Australian Privacy Principle 6.1(b), 6.2(c), s 16A(1), table, item 2.

interviews I had with participants (including persons outside the Archdiocese). Some participants took the view that the safety of children comes first, and that if it were necessary to reveal details about an individual in order to protect children, then that should be done. Others took the view that, when a person had not been charged with any offence, it was improper (and unfair to that person) to communicate allegations against them to parents and others (including, in some cases, principals or teachers). Many people thought that the demands of privacy and communicating about child protection matters had to be balanced, but few had a clear idea of how this could lawfully be done.

### Other relevant legislation

- 4.7 It may be, in some cases, that the Archdiocese is not only bound by the Commonwealth privacy legislation, but also by State and Territory legislation. The *Health Records and Information Privacy Act* (NSW) and the *Health Records (Privacy and Access) Act 1997* (ACT) apply to certain private entities and regulate the use and disclosure of “health information.” It appears that this legislation was not considered when sharing information about the Priest’s health (or, at least, this legislation was not mentioned by the persons I interviewed).
- 4.8 The *Children and Young Persons (Care and Protection) Act 1998* (NSW) and the *Children and Young People Act 2008* (ACT) may authorise the sharing of information in some circumstances. Part 16A of the *Children and Young Persons (Care and Protection) Act* authorises the sharing of information relating to the safety, welfare or well-being of children between “prescribed bodies” for certain purposes.<sup>8</sup> A “prescribed body” could include the Church at least when acting in certain capacities.<sup>9</sup> Division 25.3.2 of the *Children and Young People Act* allows “information sharing entities” to share information that is relevant to the health, safety or wellbeing of the child or young person with certain persons, in specified circumstances.<sup>10</sup> Again, none of the persons I interviewed mentioned these information-sharing provisions.
- 4.9 Those Acts may not have been relevant or applicable in the circumstances concerning the Priest. However, they do allow schools to share information with certain persons in a regulated environment, so an understanding of the information sharing provisions in those Act could have assisted when it came to making coordinated decisions about who was entitled to know about the Priest and what information Sts Peter and Paul Primary School could share and with whom.

### Privacy policies

- 4.10 Nobody I spoke to in the course of my interviews mentioned the Archdiocese’s privacy policies. Upon request, I was provided with two privacy policy

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<sup>8</sup> *Children and Young Persons (Care and Protection) Act 1998* (NSW), s 245C.

<sup>9</sup> *Children and Young Persons (Care and Protection) Act 1998* (NSW), s 245B(1), s 248(6)(b) and (f); *Children and Young Persons (Care and Protection) Regulation 2012* (NSW), cl 8(1)(c) and (j).

<sup>10</sup> *Children and Young People Act 2008* (ACT), ss 858-863.

documents the Archdiocese has adopted, which I was instructed were in relation to employment, one entitled "Privacy Policy," the other entitled "Privacy Compliance." The terms of the documents suggested that they extended to dealings with the personal information of parishioners and volunteers. The document entitled "Privacy Compliance" appears to have been created to provide advice to parishes and Archdiocesan entities.

- 4.11 A different, much shorter document, also entitled "Privacy Policy," is available on the Archdiocese's website.<sup>11</sup> This appears to be designed deal with information provided by persons using the website over the website or by email to the Archdiocese (for example, by subscribing to its newsletter).
- 4.12 The Archdiocese does not have a comprehensive policy governing the use and disclosure of the personal information of priests, or others about whom adverse allegations have been made. Whilst the privacy documents provided to me by the Archdiocese could, on their terms, extend to dealing with the personal information of priests in some circumstances, they are of little assistance for an employee wanting guidance as to how to deal with sensitive information, such as information concerning allegations that a priest has engaged in boundary violations with children.
- 4.13 The document headed "Privacy Compliance" only outlines in very general terms the prohibition against use and disclosure of personal information, and does not deal with the exceptions to that prohibition. The document entitled "Privacy Policy" appears to be concerned with informing people from whom personal information is collected about how that information is dealt with. It does not provide any guidance to persons in the Archdiocese who need to know whether they are entitled to use or disclose personal information, such as allegations about the Priest.
- 4.14 It appears that Archdiocesan employees, including employees within IPSS, had not received any or any adequate training in privacy compliance and the use and disclosure of personal information.

**Finding Ten:**

The Archdiocese did not have, at the relevant times, adequate privacy policies governing the use and disclosure of personal information.

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<sup>11</sup> See <http://cgatholic.org.au/privacy-policy/> (accessed 29 May 2017).

### **Finding Eleven:**

The Archdiocese did not provide its employees, who were responsible for making decisions about the use and disclosure of the Priest's personal information, with adequate training about the circumstances in which personal information may be used and disclosed.

### Discussion and Recommendations

- 4.15 The view that privacy can and should be disregarded when the safety of children is in issue (which was expressed in interviews by some persons, outside the Archdiocese) could place the Church at risk of engaging in unlawful conduct under the *Privacy Act*. It could not sensibly be suggested that the Church should adopt an unlawful policy which required it to breach its privacy obligations. However, the other extreme, of communicating too little, "because of privacy," may also endanger children and may mean that the Church fails in its responsibility to them.
- 4.16 The key people who were making decisions about sharing information about the Priest did not have available to them any protocols or privacy policies to guide their decision-making. It appears that they had not been given the opportunity to participate in any privacy training with the Archdiocese. As a result, they did not have a clear conception of the circumstances in which the prohibition against the use and disclosure of personal information in the *Privacy Act* did not apply (and thus of the circumstances in which they could lawfully disclose information about the Priest). Further, there were no policies or procedures in place concerning the sharing of what might loosely be described as child protection information, under the *Ombudsman Act*, the *Children and Young Persons (Care and Protection) Act* or the *Children and Young People Act*.
- 4.17 Greater communication concerning the allegations against the Priest in this case, if such communication had in fact been lawful, could have avoided or mitigated some of the adverse consequences of moving the Priest to Lanigan House. For example, had the Clergy Retirement Foundation been informed of the allegations against the Priest, a member of that Foundation may have raised with the Archdiocese the issues associated with it being next to a school. Similarly, if the principal of Sts Peter and Paul Primary School had been informed of the allegations against the Priest, then she would have taken steps to mitigate the risk or perceived risk to children and to the school's reputation. Further, if the Catholic Education Office had been informed that the Priest was residing next to a Catholic school, the Director would have been in a position to make representations to the Archdiocese about moving him.
- 4.18 There is therefore a need for Archdiocesan staff to have a better understanding of when communication of personal information is lawful. This will better enable them to negotiate the obligation to protect an individual's privacy and

the obligation to protect children from harm. It is important that the employees concerned receive clear guidance as to what information may be shared and with whom. A more informed approach to the legal constraints upon the use and disclosure of individuals' personal information is likely to lead to better outcomes for children's safety.

- 4.19 A transparent, widely-available privacy and information sharing policy could provide clear guidance, for Archdiocesan employees, as to the circumstances in which the personal information of persons such as the Priest may be shared. It would also provide the Archdiocese with some protection from criticism, should it be alleged by parents or others that they were entitled to know particular personal information which cannot lawfully be shared in the circumstances (such as details of allegations against a priest). Due to the complexity of the legislative regimes governing privacy and child protection, legal advice is needed to inform such a policy.
- 4.20 The Archdiocese should therefore develop a privacy and information sharing policy, applicable to employees of the Archdiocese (including in IPSS), which governs all aspects of dealing with personal information and, in particular, the use and disclosure of personal information. The policy should address the circumstances in which Catholic agencies may exchange personal information for purposes of risk management.
- 4.21 IPSS is responsible, according to its website, for safeguarding children and vulnerable adults and managing issues and complaints. It is inevitable that issues concerning the interface between child protection and privacy will arise again in the future, either in the course of IPSS investigations or in complaint-handling.
- 4.22 The Archdiocese's privacy and information sharing policy should therefore cover both the handling of personal information under the *Privacy Act* and the sharing of personal information in a child protection context. This could include information arising from investigations under the *Ombudsman Act*, and the sharing of personal information under the *Children and Young Persons (Care and Protection) Act* and the *Children and Young People Act*.
- 4.23 Finally, a privacy and information sharing policy should make reference to the restrictions upon dealing with health information under the *Health Records and Information Privacy Act* and the *Health Records (Privacy and Access) Act*.
- 4.24 Once policies have been developed, the Archdiocese should provide appropriate training to people who have a role in managing personal information, such as employees of IPSS.
- 4.25 In the interests of transparency, the privacy and information sharing policy should be published on the Archdiocese's website.

**Recommendation Eight:**

That the Archdiocese develop a privacy and information sharing policy applicable to employees of the Archdiocese, including in IPSS, which governs all aspects of dealing with personal information and which is informed by legal advice.

**Recommendation Nine:**

That the Archdiocese's privacy and information sharing policy address the circumstances in which Catholic agencies may exchange personal information for risk management purposes, including for managing risks to children.

**Recommendation Ten:**

That the Archdiocese's privacy and information sharing policy cover applicable State and federal laws governing the handling of personal and health information and the sharing of personal information in a child protection context.

**Recommendation Eleven:**

That the Archdiocese publish its privacy and information sharing policy on its website.

**Recommendation Twelve:**

That, once the Archdiocese has developed a privacy and information sharing policy, it provides relevant employees, including those working in IPSS, with training in the handling of personal information in accordance with the law and in accordance with its policy.

## Chapter 5: Communication with stakeholders

- 5.1 One of the key issues arising from the decisions to move the Priest to Lanigan House, and to allow him to remain there, is the lack of communication between the Archdiocese and internal and external stakeholders about that decision.
- 5.2 It was reported to me that parents of children at Sts Peter and Paul School felt a high level of dissatisfaction about what they perceived as the instruction from IPSS to the principal not to tell anybody about the risk assessment of 2016,<sup>12</sup> other than senior staff. Some parents thought that the parent body should have an opportunity to vet all priests who were placed at Lanigan House in the future.
- 5.3 There was also a strong view held by staff at Sts Peter and Paul Primary School, and by representatives of the Catholic Education Office, that the risk assessment and information about the allegations about the Priest should have been provided to the Catholic Education Office. It was thought to place too much pressure on the principal to be the recipient of the information in the absence of the Catholic Education Office also being informed.
- 5.4 The key stakeholders (Sts Peter and Paul Primary School, the Catholic Education Office, Malkara School and the ACT Education Directorate) were of the opinion that they should have been consulted or informed about the decision to move the Priest to Lanigan House.
- 5.5 Senior staff members at Sts Peter and Paul Primary School were concerned about the limited nature of the information which was communicated to them about the Priest. They were of the strong view that the risk assessment should have stated that there were sustained allegations that the Priest had engaged in inappropriate behaviour with children. The risk assessment made no reference to the nature of the concerns about the Priest.
- 5.6 There were some differences in recollection as to what was communicated orally to senior management about the Priest. However, it is clear that very little detail was provided for privacy reasons and, at most, IPSS informed the principal and deputy principal that there had been lower level touching and that the matters were historical.
- 5.7 I did not interview anyone from Hartley House, a residential facility for disabled adults which is also close to Lanigan House. However, some interviewees suggested that those persons were also vulnerable and should have been consulted about moving the Priest to Lanigan House.

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<sup>12</sup> There is debate as to whether there was in fact an "instruction" from IPSS to the principal to restrict the dissemination of the risk assessment. The risk assessment states that "concerns for confidentiality have been addressed by limiting the name of the three priests to the Principal and the leadership team" and also states that the "principal will be asked to share the names of the priests with the leadership teams."

- 5.8 Other issues which were raised with me about communication included the view that it would be helpful for the Clergy Retirement Foundation, which helps to accommodate and care for retired priests, to be informed when there are allegations against a priest in its care. This would enable the Foundation to better advise the Archdiocese of any relevant issues arising, it would make the Foundation alert to risks and it may be helpful in caring for the priest concerned.
- 5.9 There were, at the time, no policies concerning the sharing of information about decisions concerning the residence of priests who may pose a risk to children, or about sharing risk assessments concerning priests, with affected stakeholders.
- 5.10 The communication with stakeholders was limited, in part due to concerns about privacy. However, the extent to which privacy prohibited disclosure was not fully explored. Some greater communication would have been possible, without violating privacy, even if this involved using de-identified information. For example, the ACT Education Directorate could simply have been informed that an elderly priest who had engaged in boundary violations with children was living close to Malkara School.

**Finding Twelve:**

The Archdiocese did not consult or communicate adequately with internal or external stakeholders about its decisions to house the Priest to Lanigan House, first on a temporary then on a long-term basis.

**Finding Thirteen:**

The Archdiocese did not communicate to Sts Peter and Paul Primary School that it had moved the Priest to Lanigan House until about two years after this occurred, in April 2016. The risk assessment given to the principal of the school in April 2016 did not contain any details about the allegations against the Priest.

**Finding Fourteen:**

The main reason IPSS did not provide more information about the allegations against the Priest to Sts Peter and Paul Primary School was a belief that it was not entitled to do so under privacy laws.

**Finding Fifteen:**

Once the Priest's residence at Lanigan House had become public, the lack of consultation was something which contributed to feelings of dissatisfaction and anger with the Archdiocese amongst the affected schools, the parent body, the Catholic Education Office and the ACT Education Directorate.

**Finding Sixteen:**

The Archdiocese did not have a policy, at the relevant times, about the extent to which the Archdiocese (including, once it had been established, IPSS) should share personal information relevant to communicating risks with Catholic agencies and external stakeholders.

### Discussion and Recommendations

- 5.11 The lack of consultation with the Catholic Education Office, in particular, about the decision to house the Priest at Lanigan House was damaging to the Archdiocese, and to the Church more generally, in a number of ways.
- 5.12 There were strong feelings of anger and betrayal amongst the parent body at the local Catholic School. It was reported by parents that they felt that there had been a breach of trust on the part of the Archdiocese. The strength of these feelings can best be explained in light of the Royal Commission into Institutional Responses to Child Sexual Abuse. Many people in the parent body had been affected by the Royal Commission and many had attended, or had relatives or friends who had attended, the nearby Marist College, a school where there had, historically, been a particularly high level of abuse. The decision to place the Priest at Lanigan House appeared to some to be insensitive in the context of the revelations of the Royal Commission.
- 5.13 The Archdiocese's lack of consultation with the school, and with Catholic Education, contributed to a perception that the Archdiocese is out of touch with the community. The decision to place the Priest at Lanigan House and not to inform stakeholders that he was there, except belatedly and in a very limited way, made people feel that the Church was still covering up abuse or misconduct, placing the interests of the clergy above those of children. This is very significant because there were already issues of trust which arose from the way the Church dealt with abuse in the past. The decision itself, and the failure to consult adequately, made the community more distrustful of the Archdiocese.
- 5.14 As indicated above, greater consultation with stakeholders, where possible, would strengthen and improve the quality of Archdiocesan decision-making, because it would lead to better informed decisions. It would also encourage more collaborative decisions, which would tend to improve relationships

between Catholic agencies and the Archdiocese and between the Archdiocese and the broader community.

- 5.15 A framework for consultation with stakeholders when making decisions which affect them should therefore be developed in conjunction with the development of a privacy and information sharing policy. Until the Archdiocese has a clear idea of the circumstances in which it may lawfully share information, it will not be in a position to determine the extent of consultation it may engage in.
- 5.16 The consultation framework should also be developed in relation to the risk management policy. Consultation with stakeholders is particularly important when managing risks as stakeholders often bring to bear different understandings of risk and can contribute to managing it.

#### Advisory Panel

- 5.17 As indicated in Chapter Two, an advisory panel would provide a means for the Archbishop and IPSS to obtain a range of views to assist them in their decision-making. To be most effective, the panel should include persons from Catholic agencies and from the broader Catholic and non-Catholic communities.
- 5.18 A significant part of the community perceives the IPSS not to have sufficient independence, because it is seen as being part of the Archdiocese, with no independent oversight. A panel which could review and have input into IPSS investigations, on an advisory basis, would go some way to addressing this concern.
- 5.19 If the recommendation to form an advisory panel is accepted, thought would need to be given to its composition. It could include, for example, representation from Catholic Education, CatholicCare, and Marymead, a person with expertise in child protection, a parent from a school council, a parish priest and a non-Catholic person with expertise relevant to the work of the committee (possibly a lawyer or psychologist). It should have a reasonable gender balance (for example, at least 40% women and at least 40% men). The Archdiocese should provide the secretariat.
- 5.20 Input from Catholic agencies and from relevant stakeholders should be sought as to the composition of and the terms of reference for the advisory panel.
- 5.21 One of the legal obstacles to having an effective advisory panel concerns the extent to which information may be shared with a panel, particularly if it consists of persons who are not employees of the Catholic Church.
- 5.22 Prior to the establishment of the advisory panel, the Archdiocese should obtain legal advice as to the type of information which may be shared with the panel, having regard to legal issues concerning privacy and confidentiality. This might affect the composition of the panel (it may mean, for example, that it has to be restricted to employees of the Catholic Church, at least when dealing with

sensitive issues). Alternatively, policies and protocols might be established for the sharing of information with the panel, and confidentiality agreements drafted, to facilitate the sharing of information.

5.23 The advisory panel should meet regularly, at least quarterly, so as to play a meaningful role and have regular input into Archdiocesan and IPSS decision-making. It should review key cases which have been dealt with by IPSS and any other matters the Archbishop refers to it. The panel could also be given a role in reviewing policies and procedures of the Archdiocese. Its members should be available for additional meetings or consultation, either in person or by electronic means, should any emergencies arise.

**Recommendation Thirteen:**

That the Archdiocese develop a framework for consultation with stakeholders when making decisions which affect them, in conjunction with the development of a privacy and information sharing policy and a risk management policy.

**Recommendation Fourteen:**

That the Archdiocese resolve to establish an advisory panel, for the purposes of providing advice to the Archbishop and to IPSS, preferably to include persons from Catholic agencies and the broader Catholic and non-Catholic community.

**Recommendation Fifteen:**

That the Archdiocese draft terms of reference for the advisory panel, in consultation with key stakeholders.

**Recommendation Sixteen:**

That the Archdiocese obtain legal advice about the extent to which information may be shared with an advisory panel, prior to finalizing the terms of reference.

**Recommendation Seventeen:**

That the functions of the advisory panel include reviewing cases which are being dealt with by IPSS and providing advice on other matters referred to the panel by the Archbishop.

### **Recommendation Eighteen:**

That the advisory panel be convened regularly, at least four times a year.

## Chapter 6: Response after Priest's residence became public knowledge

- 6.1 This chapter concerns the Archdiocese's response to the media and its dealings with key stakeholders once it became public knowledge that the Archdiocese had placed a priest, who had been found to have behaved inappropriately towards children, in accommodation next to a school.
- 6.2 The Archdiocese's initial response to the story becoming public was partly counter-productive, in that it caused damage to community perceptions of the Church and to relationships within the Church. The Archbishop was inadequately briefed when he spoke to the media and the Archdiocese's media response was inadequately managed and coordinated. These two factors unnecessarily extended the media coverage of the story and tended to create an impression of the Church being fractured.

### Factual errors

- 6.3 The Archdiocese had advance warning of the first article which appeared in *The Canberra Times*, as is evidenced by an undated letter written by the principal of Sts Peter and Paul Primary School to parents. The letter stated that the principal was writing to inform parents of an article which would appear in *The Canberra Times* "tomorrow" and gave the phone number of an IPSS officer as a contact point.
- 6.4 The Archdiocese also issued a media release "in response to questions" on 28 February 2017, the day the story broke. The media release explained that the Priest was initially provided with accommodation at Lanigan House because "there was no other accommodation available." It also stated that prior to making the decision to move the Priest to Lanigan House, "a thorough risk assessment was conducted by staff within the Institute for Professional Standards and Safeguarding and the Principal at the nearby Catholic school consulted."
- 6.5 The media release was misleading in that the Priest was moved to Lanigan House before IPSS was established, and two years before the risk assessment was conducted. The Principal at the nearby Catholic school was not consulted. Rather, she was advised that the Priest was in residence two years after the event, without being provided with adequate information about the findings against him.
- 6.6 The Archbishop participated in an ABC radio interview with Genevieve Jacobs on 1 March 2017. The interview had been scheduled some time earlier, in order

for the Archbishop to comment on Case Study 50 of the Royal Commission into Institutional Responses to Child Sexual Abuse, "Catholic Church Authorities in Australia." The Archbishop had given evidence at the Royal Commission the previous week.

- 6.7 The Archbishop was not adequately briefed to answer questions concerning the move of the Priest to Lanigan House when he was interviewed at 9am on 1 March 2017. It was important to the reputation of the Archdiocese and the Archbishop, to their relationships with others, and to avoiding legal liability, that the questions were fully anticipated by the Archdiocese and comprehensive information provided to the Archbishop. Given that the story had broken the day before, and the interview was planned, this should have been possible, had the Archdiocese had better processes in place for dealing with the media, including a crisis management plan.
- 6.8 In the absence of a comprehensive briefing, the Archbishop made a factual error which had significant ramifications. This was that, in response to a question about whether the principals of the schools nearby had been given the Priest's full history, he said that the answer was "yes" in respect of the Catholic School.
- 6.9 The current principal of Sts Peter and Paul Primary School commenced in 2016. As the Archbishop's answer followed on from his comment that the issue of the Priest's accommodation had "been going on for some years," there was an implication that the former principal may also have been informed about the Priest's full history. In fact, the former principal had not been informed that the Priest was at Lanigan House, and the current principal had not been given information about the allegations against the Priest, or that they involved children.
- 6.10 This factual error placed both the current and former principal in a difficult position, as neither could correct the error without seeming to undermine the Archbishop. Further, it subjected the current principal to hostility and suspicion from the school community.

#### Processes for dealing with the media

- 6.11 The Archdiocese does not have a dedicated media officer. The persons responsible for handling requests for media comment within the Archdiocese are the Vicar General and the Archdiocesan Financial Administrator. However, IPSS in fact handled many media enquiries concerning the Priest. The Archdiocese's website currently directs media enquiries to the media and communications director of the Australian Catholic Bishops Conference.
- 6.12 The Archdiocese did not at the relevant time have a media or communications policy. Communication with the Archdiocese initially proved challenging for stakeholders and the media alike.

- 6.13 There was general dissatisfaction both with how the Archdiocese handled incoming media enquiries and enquiries from stakeholders, and how it notified stakeholders of the story, at least in the early stages.
- 6.14 IPSS notified Malkara School that the Archdiocese was going to issue a press release later that day by telephoning the school on the morning of 28 February 2017. IPSS did not contact the ACT Education Directorate about this. Fortuitously, the principal of Malkara School was available to take the telephone call when IPSS rang and she notified the ACT Education Directorate.
- 6.15 The ACT Education Directorate regarded itself as an interested stakeholder first, because it was responsible for Malkara School and secondly, because it is the regulatory authority in relation to schools and the Archdiocese is ultimately responsible for Catholic schools.
- 6.16 The ACT Education Directorate, once notified about the story, contacted the Catholic Education Office to find out more information about the circumstances in which the Priest had been moved to Lanigan House. The Catholic Education Office was unable to assist and referred the ACT Education Directorate to the Archdiocese.
- 6.17 Once the ACT Education Directorate had made contact with IPSS, it was satisfied with the way IPSS kept it informed as the story developed in the media. However, it was of the opinion that it should not have been responsible for making contact in the first place.
- 6.18 The Catholic Education Office also felt that communication with it was inadequate. It was not provided with the risk assessment until after the story broke, and this was probably provided to it by Sts Peter and Paul Primary School. It had difficulties obtaining from IPSS a clear and accurate statement of the relevant facts. It was unclear to many whether IPSS or Catholic Education was primarily responsible for dealing with the media, and they had no agreement in place about this.
- 6.19 It also appears that the Archdiocese did not make itself sufficiently available to the media or return calls from media organisations quickly enough. The ACT Education Directorate was receiving calls from the media complaining that they couldn't get information from the Archdiocese or from Catholic Education so they wanted a story from the Directorate. This clearly meant that the Archdiocese was not controlling the story.
- 6.20 It appears from the transcript of the interview with the Minister for Education on 2 March 2017, that the Archdiocese had not made sufficient attempts to contact her, or her advisors, at the time she was interviewed. It would have been preferable, of course, for her to have been provided with relevant information by the Archdiocese, which would have meant the interview could

have been less damaging to the Archdiocese. Her statement that she “was seeking an explanation” strongly suggested that she had not yet received one.

### Appearance of disunity

- 6.21 The Archdiocese did not have processes or procedures in place so as to facilitate a coordinated response to the media story. In particular, no meeting was held with Catholic Education or the leadership team of Sts Peter and Paul Primary School in the initial stages of dealing with the story. Nor was there any meeting with the ACT Education Directorate or Malkara School, to attempt to control or manage the story.
- 6.22 The lack of a coordinated approach led to factual errors and tensions which could have been avoided. It created an appearance of disunity, particularly when the Director of Catholic Education made statements in the media which could have been interpreted as being critical of IPSS and when statements made early in the piece had to be corrected.
- 6.23 The Archdiocese sought some media advice from the media officer of the Australian Catholic Bishops Conference, but not in the very early stages when such advice could have been critical.
- 6.24 A meeting was held between members of the Archdiocese (including IPSS) and Catholic Education in early March and this was positive and constructive. However, it was not held early enough to avoid much of the confusion, the factual inaccuracies and the apparent disunity in the early days of the story.

### Apologies and appearances at public meetings

- 6.25 There were several very positive and constructive steps taken by the Archdiocese to respond to public concerns after the Priest’s residence became public, which occurred in the later stages of the response.
- 6.26 The Archbishop apologised for what had occurred in a number of forums and to a number of audiences. He apologised in a media statement released on 7 March 2017. He also apologised to parishioners at a parish Mass. He apologised directly to parents of Saints Peter and Paul Primary School at the Parent Forum held on 16 March 2017 and made himself available to answer parents’ questions. The Archbishop apologised to the current principal at the Parent Forum for saying she had been fully informed, and to the previous principal. He apologised in a media statement of 17 March 2017. Finally, he made himself available at a long public meeting in the former parish of the Priest to answer questions and listen to the parishioners.
- 6.27 These were all very important steps to take, because they showed that the Archbishop was prepared to accept responsibility for the decisions made and to face criticism and answer questions. The Archbishop’s acceptance of

responsibility and apologies for mistakes made helped to dissipate some of the anger the decision had occasioned.

**Finding Seventeen:**

The Archdiocese did not have in place any media strategy or any clear communication protocols for dealing with the media when the story about the Priest's residence at Lanigan House broke in the media.

**Finding Eighteen:**

The Archdiocese did not initially communicate effectively with the media or with key stakeholders about the story about the Priest.

**Finding Nineteen:**

The Archdiocese made factual errors in its initial media response which were counter-productive in the handling of the story and caused damage to stakeholders within the Church.

**Finding Twenty:**

The Archbishop's public apologies and appearances at public meetings were constructive ways of dealing with community anger and confusion about the decision to place the Priest at Lanigan House.

## Recommendations

- 6.28 A clear strategy for what might be termed crisis management could have resulted in a more positive outcome in terms of the way the story was presented in the media. Such a strategy would need to involve accurate briefings for people dealing directly with the media, a quickly convened meeting of key stakeholders to coordinate the media response, and the allocation of clear responsibilities between the Archdiocese and relevant Catholic agencies for handling the media. In this case, it would have involved a very early meeting between the Archdiocese and leaders of Catholic Education and Sts Peter and Paul Primary School.
- 6.29 The Archdiocese also needs to adopt a more pro-active approach to dealing with the media. Whilst it issued various media releases, these were generally responding to damaging media stories. The Archdiocese should have a policy

requiring a nominated person to respond to the media within a short space of time so that the media is not forced to go to other agencies or persons to obtain information.

- 6.30 It would have been desirable for the Archdiocese to have sought advice from the media and communications director of the Australian Catholic Bishops Conference when it knew the story was going to break, given that it does not have its own media officer to provide strategic advice.

**Recommendation Nineteen:**

That the Archdiocese develop a protocol or strategy to deal with the media and with crisis management, which involves coordination between relevant Catholic agencies and, where possible, other stakeholders.

**Recommendation Twenty:**

That the Archdiocese formulate clear guidelines for communication with the media, including nominating the person or persons responsible for communication and setting objectives for timely responses.

## Chapter 7: Findings

7.1 This chapter summarises the findings made in the body of the report.

7.2 Those findings are as follows:

1. The Archdiocese gave little, if any, consideration to the circumstance that Lanigan House is adjacent to a school when the Priest was first moved there and when it was decided that he could remain there in his retirement.
2. When a risk assessment identified in 2016 that it was not ideal to house the Priest next to a school, the main impediment to moving him was the unavailability, or perceived unavailability, of suitable alternative accommodation.
3. The decision-making processes of the Archdiocese did not provide for any community consultation, or consultation with affected Catholic agencies, in relation to the making of the decisions to house the Priest in a location next to a school.
4. The Archdiocese did not have any policies concerning the accommodation of priests the subject of adverse findings concerning children.
5. The absence of policies concerning the accommodation of priests, and the lack of procedures for any consultation with stakeholders in Archdiocesan decisions which directly affected them, contributed to the decision to move the Priest to a residence next to a school.
6. The Archdiocese did not have any policies or procedures concerning the assessment or management of risks generally, or the assessment or management of risks to children in particular.
7. The Archdiocese carried out an inadequate number of assessments of the risks posed by the Priest and did not have a process for identifying when a risk assessment was needed. As a result, the Archdiocese did not, in a thorough and transparent manner, assess the Priest's risk to children as circumstances changed.
8. The risk assessment tool used by IPSS in April 2016 was deficient in that it did not identify reputational or legal risks to the Archdiocese and there was no process in place for the identified risks to be addressed and monitored by the Archdiocese.
9. The Archdiocese did not have any formal processes for considering, addressing and monitoring identified risks.
10. The Archdiocese did not have, at the relevant times, adequate privacy policies governing the use and disclosure of personal information.

11. The Archdiocese did not provide its employees, who were responsible for making decisions about the use and disclosure of the Priest's personal information, with adequate training about the circumstances in which personal information may be used and disclosed.
12. The Archdiocese did not consult or communicate adequately with internal or external stakeholders about its decisions to house the Priest to Lanigan House, first on a temporary then on a long-term basis.
13. The Archdiocese did not communicate to Sts Peter and Paul Primary School that it had moved the Priest to Lanigan House until about two years after this occurred, in April 2016. The risk assessment given to the principal of the school in April 2016 did not contain any details about the allegations against the Priest.
14. The main reason IPSS did not provide more information about the allegations against the Priest to Sts Peter and Paul Primary School was a belief that it was not entitled to do so under privacy laws.
15. Once the Priest's residence at Lanigan House had become public, the lack of consultation was something which contributed to feelings of dissatisfaction and anger with the Archdiocese amongst the affected schools, the parent body, the Catholic Education Office and the ACT Education Directorate.
16. The Archdiocese did not have a policy, at the relevant times, about the extent to which the Archdiocese (including, once it had been established, IPSS) could share personal information relevant to communicating risks with Catholic agencies and external stakeholders.
17. The Archdiocese did not have in place any media strategy or any clear communication protocols for dealing with the media when the story about the Priest's residence at Lanigan House broke in the media.
18. The Archdiocese did not initially communicate effectively with the media or with key stakeholders in relation to the story about the Priest.
19. The Archdiocese made factual errors in its initial media response which were counter-productive in the handling of the story and caused damage to stakeholders within the Church.
20. The Archbishop's public apologies and appearances at public meetings were constructive ways of dealing with community anger and confusion about the decision to place the Priest at Lanigan House.

## Chapter 8: Recommendations

8.1 This chapter summarises the recommendations made in the body of the report.

8.2 Those recommendations are as follows:

1. That the Archdiocese develop a policy, in consultation with the community and Catholic agencies, concerning the accommodation of priests who are subject to adverse allegations or adverse findings concerning children.
2. That the Archdiocese identify suitable properties for the accommodation of priests who have been subject to adverse allegations or findings concerning children, and maintain a list of suitable properties, or suitable areas in which such priests may be accommodated in rental accommodation, to be reviewed annually.
3. That the Archdiocese develop a comprehensive risk management policy informed by the Australian/New Zealand standard for risk management, AS/NZS ISO 31000:2009, "Risk management—Principles and guidelines."
4. That the risk management policy address the circumstances in which risk assessments are to be conducted, the frequency with which they are to be reviewed or updated, the stakeholders who are to be consulted about and/or informed of risk assessments and the responsibilities and accountabilities for risk management within the Archdiocese.
5. That the Archdiocese publish its risk management policy on its website and that it consider publishing its risk assessment template on its website.
6. That the Archdiocese develop a new risk assessment template which continues to address risks to children, but also addresses reputational, relational and legal risks to the Archdiocese.
7. That the Archdiocese establish a transparent procedure for determining what actions the Archdiocese needs to take to address and monitor identified risks.
8. That the Archdiocese develop a privacy and information sharing policy applicable to employees of the Archdiocese, including in IPSS, which governs all aspects of dealing with personal information and which is informed by legal advice.
9. That the Archdiocese's privacy and information sharing policy address the circumstances in which Catholic agencies may exchange personal information for risk management purposes, including for managing risks to children.
10. That the Archdiocese's privacy and information sharing policy cover applicable State and federal laws governing the handling of personal and

health information and the sharing of personal information in a child protection context.

11. That the Archdiocese publish its privacy and information sharing policy on its website.
12. That, once the Archdiocese has developed a privacy and information sharing policy, it provides relevant employees, including those working in IPSS, with training in the handling of personal information in accordance with the law and in accordance with its policy.
13. That the Archdiocese develop a framework for consultation with stakeholders when making decisions which affect them, in conjunction with the development of a privacy and information sharing policy and a risk management policy.
14. That the Archdiocese resolve to establish an advisory panel, for the purposes of providing advice to the Archbishop and to IPSS, preferably to include persons from Catholic agencies and the broader Catholic and non-Catholic community.
15. That the Archdiocese draft terms of reference for the advisory panel, in consultation with key stakeholders.
16. That the Archdiocese obtain legal advice about the extent to which information may be shared with an advisory panel, prior to finalizing the terms of reference.
17. That the functions of the advisory panel include reviewing cases which are being dealt with by IPSS and providing advice on other matters referred to the panel by the Archbishop.
18. That the advisory panel be convened regularly, at least four times a year.
19. That the Archdiocese develop a protocol or strategy to deal with the media and with crisis management, which involves coordination between relevant Catholic agencies and, where possible, other stakeholders.
20. That the Archdiocese formulate clear guidelines for communication with the media, including nominating the person or persons responsible for communication and setting objectives for timely responses.

## Appendix A: Amended Terms of Reference

### **Independent Review**

A review into the process leading to the decision by the Archdiocese of Canberra and Goulburn to place a priest with sustained findings of inappropriate behaviour into Lanigan House.

### **Terms of Reference**

The independent review of the decision by the Archdiocese of Canberra and Goulburn (the Archdiocese) to place a priest with sustained findings of inappropriate behavior into Lanigan House (the **Decision**), will prepare findings and recommendations on the process underpinning this decision.

The review will examine all aspects of the decision making process resulting in the relocation of this priest to Lanigan House, including but not limited to:

- The process forming the basis of the original decision, including all stakeholders involved in that process.
- The documentary evidence including the use, and suitability of the risk assessment tools used in this case.
- Consultation with key stakeholders including but are not limited to the Archbishop, Vicar General, Institute of Professional Standards and Safeguarding, Manager Clergy Support, Financial Administrator, Chancellor, the College of Consultors, Catholic Education, the Principal Executive and School Council of Saints Peter and Paul, the ACT Education Directorate and Malkara School.
- Key legislation relied upon regarding the distribution of information regarding the Decision.

The review will also consider the response by the Archbishop's Office for Evangelisation once knowledge of this priest's residence became public, including but not limited to the decision to remove this priest as well as the management and handling of media and community enquiries.

For clarity, this is a process Review of Diocesan systems. The Report will make findings about how Diocesan policies, processes and practices operated in respect of the Decision and its subsequent management; identify any lessons to be learnt; and formulate recommendations for systemic improvements (where appropriate).

The Review is not an investigation into specific alleged acts or omissions of any current or former staff or clergy involved in the Decision or its subsequent

management. No findings will be made about alleged conduct of any individual involved in the process.

The Chancellor of the Archdiocese will be the main point of contact and oversee the progress of this review. He will provide logistics support to the review as required.

The review team will have full access to all material for examination. Relevant Archdiocesan agencies will co-operate fully with the review and provide any requested assistance.

The methodology for conducting this review will be determined in consultation with the review team.

### **Recommendations**

The findings and recommendations of the review will be forwarded to the Archbishop by the end of May 2017.

The Archbishop will make a considered response by the end of June 2017. The review report and the response will be made publicly available.

5 April 2017

## Appendix B: Methodology

### Methodology for Review

The Reviewer has been retained by the Archbishop to conduct a review and provide a Report of Findings and Recommendations, in accordance with the Terms of Reference dated 17 March 2017 (the '**Terms of Reference**'), and amended on 5 April 2017.

While the Archbishop has stated that the Review report of findings and recommendations and the Archbishop's response will be made publicly available, the Review is not a public inquiry.

As set out in the Terms of Reference, the methodology for the Review has been determined through consultation between the Chancellor of the Archdiocese and the Reviewer, and is set out below.

#### 1. Persons participating in the Review

As the Review is a private inquiry, only key stakeholders falling within the categories set out in the Terms of Reference will be interviewed in the first instance.

If other persons not within those categories seek to participate, the Reviewer will make a decision based on their connection to the matters within the Terms of Reference and the relevance of the information they may potentially provide.

#### 2. Interview Protocols

All persons participating in the review by way of an interview with the reviewer will be asked to sign an Interview Protocol in the form **attached** acknowledging a number of important matters, including the voluntary nature of their participation, how the interview will be conducted, presence of a support person, privacy consent and confidentiality obligations.

Interviews will not proceed without a signed Interview Protocol.

#### 3. Voluntary nature of participation

The Reviewer has no power to compel any person to participate in the Review and accordingly participation is on an entirely voluntary basis.

No adverse comment will be made or inference drawn in the Report of Findings and Recommendations from a participant declining to participate in the Review.

The Interview Protocol requires persons who do participate to acknowledge they do so on a voluntary basis.

#### **4. Interview methodology**

The interviews will not be audio recorded, and consent is not given by the Reviewer to participants to audio record.

The Reviewer will make notes during the interview, and prepare a Summary of Interview which will be provided to the participant for review, amendment and confirmation as to its accuracy.

Summaries of Interview and documents collected or provided during the course of the Review will not form part of the Report of Findings and Recommendations and thus will not be made publicly available. However, they will be provided to the Archbishop as part of the ancillary material, forming part of the Archdiocese's file in relation to the Review.

#### **5. Support person at interview**

Participants are welcome to have a support person or representative attend their interview. If so, that person will also be asked to sign an Interview Protocol.

#### **6. Privacy consent**

Participants (and support persons) will be required to sign a privacy consent as part of the Interview Protocol, authorizing the Reviewer to collect, store, use and disclose their personal information provided during interview (and in any ancillary documentary material supplied).

#### **7. Confidentiality**

The participant and their support person are required under the Interview Protocol to maintain confidentiality in respect of the matters disclosed by the Reviewer at interview.

Information obtained by the Reviewer from a participant during the Review will be kept as confidential as possible. However, it may be necessary for information provided to the reviewer to be disclosed, in the circumstances set out in the Interview Protocol.

## Appendix C: Interview Protocol

### Interview Protocol Archdiocese of Canberra-Goulburn Lanigan House Review

Interviewee's Name:

Interviewee's Support Person:  
(note if Support Person is declined)

Interviewer Name - Reviewer: Juliet Lucy

Date / Time / Location of Interview:

1. I have been offered a support person. I understand that I may adjourn the interview at any time for a break and/or to have a discussion with my support person (if present).
2. I have been given an explanation of the Review process.
3. I acknowledge that I am participating in the Review voluntarily without any threat, promise or inducement to participate.
4. I (and my support person if present) agree to observe confidentiality about the matters disclosed by the Reviewer at interview.
5. I understand that the Reviewer may collect, store, use and disclose for the purpose of the Review personal or sensitive information about me (as defined in privacy laws), including:
  - a) to other participants in the proper conduct of the Review;
  - b) to the Archdiocese in the course of and arising from the Review;
  - c) as part of the Review's report of findings and recommendations which will be made publicly available by the Archdiocese; and
  - d) in any legal proceedings,and I consent to this collection, storage, use and disclosure.
6. Information obtained during the Review will be kept as confidential as possible by the Reviewer. However, I understand it may be necessary for information provided to the Reviewer to be disclosed as set out in the privacy consent in paragraph 5 above and I agree to such disclosure.
7. I consent to notes being taken during the interview.
8. I will answer questions truthfully and to the best of my knowledge and recollection.

#### DECLARATION

I have read, understand and agree to comply with the above Interview Protocol.

Interviewee's signature: \_\_\_\_\_ Date: / /

**Interview Protocol – Support Person  
Archdiocese of Canberra-Goulburn  
Lanigan House Review**

Interviewee's Name:

Interviewee's Support Person:

Interviewer Name: Juliet Lucy

Date / Time:

1. I understand I am attending this interview as a support person for the interviewee, who is a participant in the Review.
2. I agree that I will not intervene or provide a response on behalf of the interviewee.
3. I agree to observe confidentiality about the matters disclosed by the Reviewer at interview.
4. I consent to notes being taken during the interview.

**DECLARATION**

I have read, understand and agree to comply with the above Interview Protocol.

Support person's signature: \_\_\_\_\_ Date:     /     /

## Appendix D: Independent Reviewer Profile

Juliet Lucy is a barrister practising at Tenth Floor Chambers in Sydney and a part-time Senior Member of the NSW Civil and Administrative Tribunal. Juliet has no personal affiliation to the Catholic Church.

Juliet's main practice areas as a barrister are commercial, administrative and human rights law. Juliet has appeared in the Federal Circuit Court in employment law matters and has conducted reviews of student complaints for the University of Sydney. She has been engaged by the Royal Commission into Institutional Responses to Child Sexual Abuse to undertake research and to assist with hearings and has provided advice to the NSW Department of Community Services on legislation concerning children.

Juliet's role as a tribunal member includes hearing and determining privacy proceedings, discrimination proceedings and reviews of decisions of the NSW Children's Guardian concerning working with children check clearances. Juliet is a member of the Appeal Panel of the Tribunal and sits on appeals from a wide variety of first instance decisions.

Prior to being called to the bar, Juliet held positions as a Senior Solicitor at the NSW Crown Solicitor's Office, a Principal Lawyer at the Queensland Department of Natural Resources and Water and a Lecturer at the University of Western Sydney.

Juliet holds first class honours degrees in Law and Arts and a PhD from the University of Sydney. She is admitted to practice in New South Wales and Queensland.

Juliet has published books, articles and legal commentary on topics including administrative law, tribunal practice and procedure, water law and privacy.