

# B24 ROYAL COMMISSION NATIONAL TASK GROUP

## 1. THE ROYAL COMMISSION

The Royal Commission into Institutional Responses to Child Sexual Abuse was announced by then Prime Minister Julia Gillard in November 2012. The Royal Commission was established in January 2013 and six Commissioners appointed. The Commission's work across the subsequent five years changed the community's understanding of child sexual abuse in institutions, and demonstrated the failings inherent in their responses. The Royal Commission's Final Report explores the scope of its inquiry, learnings and recommendations which will shape the future of organisational and community standards for years to come.

### 1.1 PROCESS

The elements of the Royal Commission's process included:

- Private sessions
- Public hearings
- Case Studies
- Commissioned Research
- Round Tables (expert panels)

To conduct private sessions, the Royal Commission required an amendment to the Royal Commissions Act (Cwth). This change enabled individuals to meet with one or two Commissioners and tell their story. **More than 8000 people attended those private sessions.**

### 1.2 STATISTICS OF THE COMMISSION'S WORK

- 8013 Private Sessions held
- 2575 Referrals to Authorities
- 57 Public Hearings
- 17 Volume final report
- 189 Final Recommendations
- 36 Working with Children Checks report recommendations
- 99 Redress and Civil Litigation report recommendations
- 85 Criminal Justice report recommendations

**409 Recommendations in total**

## 2. UNITING CHURCH ENGAGEMENT

The Uniting Church welcomed the Royal Commission, as it sought to uncover the truth regarding how institutions have responded to child sexual abuse. The Church issued a Values Statement in relation to the Royal Commission which, in part, states that the Uniting Church believes that God has given us the gift of the Spirit to "constantly correct that which is erroneous" in our life (Basis of Union, paragraph 18). Therefore, we will not hide from the truth, however painful that may be, and we will seek, with compassion and humility, to address whatever issues and challenges may emerge for us. We will say "sorry" to anyone who was sexually abused when in our care and, in consultation with those so affected, actively seek for ways to make amends for what happened in the past and identify how we can best offer support into the future. In all of this we are guided by the Word of God, remembering the teaching of the Apostle Paul: "Whatever is true, whatever is honourable, whatever is just, whatever is pure, whatever is pleasing, whatever is commendable... think about these things" (Philippians 4:8).

The following section outlines how the Church has engaged with the Royal Commission.

## 2.1 TASK GROUPS

As reported to the Fourteenth Assembly, the Standing Committee established the National Engagement and Response Task Group to respond to the Royal Commission (National Task Group) and recommended that each Synod establish a Task Group to respond to the Royal Commission. All Synods did so, adopting identical terms of reference. These task groups have met regularly to share learnings from the National Task Group, to incorporate learnings into practice and to facilitate the Church in responding to and learning from the Royal Commission.

During the last Triennium, the National Task Group has:

### **Policy**

- Established a National Interim Redress Framework for the Uniting Church
- Reviewed the National Child Safe Policy Framework in light of the Royal Commission's report on the Ten Elements of a Child Safe Organisation
- Established an implementation plan, with resources to aid implementation of the National Child Safe Policy Framework.
- Engaged with networks across the Church to support implementation.

### **Compliance**

- Created an annual National 'self-audit' process. This audit is done against the Child Safe Framework.
- Completed mapping of audit and compliance responsibilities nationally.

### **Royal Commission Engagement**

- Engaged with the Royal Commission through providing submissions regarding risk of child sexual abuse in schools; 'best practice principles in responding to complaints of child sexual abuse in institutional contexts'; and 'Institutional Responses to Child Sexual Abuse in Out-of-Home Care'
- Reviewed research reports published by the Royal Commission and communicated learnings to the Church.
- Reviewed Public Hearings for learnings for the Church.
- Established a Communications Plan for the Uniting Church regarding the Royal Commission,

### **Redress**

- In addition to the creation of an Interim Redress Framework, the National Task Group has worked alongside Synods to understand issues related to implementing Redress.
- Participated in consultation processes with the Commonwealth regarding a National Redress Scheme.
- Provided submissions to the Commonwealth on draft legislation.
- Given evidence to a Senate Committee regarding redress legislation.
- Facilitated ecumenical discussions regarding redress
- Advocated for a truly equitable National Redress Scheme
- Nationally committed to Model Litigant Principles

### **Embedding Learnings**

- Created a program of work to transition from engaging with the Royal Commission towards implementation of the learnings of the Commission
- Reviewed the Royal Commission's Final Report and developed a summary paper
- Proposed a strategic approach through the establishment of a national Safe Church Unit to continue to embed the learnings of the Royal Commission into the life of the Church

## 2.2 PUBLIC HEARINGS

The Uniting Church was involved in five public hearings:

- February 23 to March 6, and April 28 2015, Case Study 23: Knox Grammar, evidence was given by: former students; former teachers, house masters, the former principal and the current principal.
- March 10 to 18 2015, Case Study 24: preventing child sexual abuse in out-of-home care and responding to allegations of child sexual abuse occurring in out-of-home care. Evidence was given by Wesley Mission Sydney and Wesley Mission Victoria.
- March 25 to 27 2015, Case Study 25: redress and civil litigation, invited us to speak to our written submission to the consultation paper on redress and civil litigation. Evidence was given by the President Rev. Prof. Andrew Dutney, and Anne Cross on behalf of the Uniting Church.
- October 2016, Case Study 45: Problematic and harmful sexual behaviour of children in schools. Evidence was given by a number of schools, both public and private, in this hearing. The Uniting Church's Shalom Christian College was one of the schools examined in the case study, with Commissioners hearing evidence from a past student and their family, past and current principals, board and staff members.
- March 2017, Case Study 56: Institutional Review of Uniting Church in Australia. Evidence was given by President Stuart McMillan, General Secretary Colleen Geyer and Queensland Synod General Secretary Rev. Heather den Houting.

## 2.3 PREPARATION

Each of the hearings required significant preparation with the provision of documents and statements from Uniting Church representatives. At all times during this process, the Church sought to express the values it had endorsed with respect to the Royal Commission and be fully open and transparent.

## 2.4 DATA

On 3 March 2017, the Royal Commission requested that the Uniting Church in Australia provide data in relation to all allegations, complaints, incidents and claims related to child sexual abuse since the formation of the Church in 1977.

In response, the Church compiled a comprehensive listing of all known allegations, complaints, incidents and claims relating to child sexual abuse that had occurred in the Church, including its institutions, from across all Synods. The initial data provided by the Church included all allegations, complaints and incidents that the Church was aware of, whether or not they had been accepted or substantiated.

On 3 October 2017, the Royal Commission provided the Church with the definition that the Catholic Church used in their dataset and requested that, using the Catholic Church definition as an example, the Church provide the Royal Commission with the definition of "Uniting Church Personnel".

The Church responded to the request of the Commission and developed a definition of "Uniting Church Personnel": Any current or former person in a specified ministry or any other person employed by or appointed to a voluntary leadership position by a Council or Institution of the Uniting Church in Australia.

For UCA purposes... a person in a specified ministry is to be understood in the same way as a Minister is defined by the Code of Ethics<sup>1</sup>: "In this Code, "Minister" refers to Candidates, Community Ministers, Deacons, Deaconesses, Interns, Lay Pastors, Ministers of the Word, Pastors, Youth Workers and Ministers from another denomination serving in an approved placement".

The Royal Commission made a subsequent request that based upon the new definition of Uniting Church Personnel, the Church should reanalyse and reclassify its dataset.

On 10 October 2017, the Church provided the Royal Commission with the reclassified dataset. This dataset saw a significant reduction in numbers as only matters meeting the definition of being perpetrated by Uniting Church Personnel were included.

The revised datasets were accepted by the Royal Commission, and subsequently published with the Case Study 56 materials on the Royal Commission website. The revised dataset indicated that overall the Uniting Church data showed 430 allegations of child sexual abuse were made to all six Synods within Australia.

Of these allegations, 102 resulted in claims of child sexual abuse where the person making the allegation sought some form of redress through either a redress process or civil litigation. Of those 102 people, 83 received a settlement. The total amount of settlement monies paid was \$12.35 million. Overall, the highest payment made to a claimant was \$2.43 million; the lowest payment made was \$110; and the average payment made was a little under \$151,000.

### **3. LEARNINGS**

Throughout the engagement with the Royal Commission, and sharpened through Case Study 56: Institutional Review of the Uniting Church, the Church has identified issues which it must address as it lives out its commitment to be a safe Church.

#### **3.1 INFORMATION MANAGEMENT AND REPORTING**

Across and within many services and activities in Synods, Agencies and Schools, information handling systems are not consistent and information is not aggregated to provide a complete data narrative which, upon review, could provide insights for continuous development.

In particular, the following have been identified:

- recording of allegations
- reporting and responding to allegations
- learnings and review of policies and procedures after each allegation
- identification and analysis of trends
- nationally sharing learnings
- review cycles for relevant policies and procedures

Additionally, the Royal Commission's research has highlighted the value to a survivor of having access to their historical records. The task of retrieval of historical records and information is very challenging and time-consuming for Synods, however, it is a necessary function to support survivors.

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<sup>1</sup> Code of Ethics and Ministry Practice for Ministers of the Church in Australia, provided to the Royal Commission at [UCA.2000.005.0003] and first referred to in the Statement of the Reverend Heather den Houting [UCA.2000.999.0017].

### **3.2 COMPLIANCE AND CONSISTENCY**

Acknowledging the varying legislative and public policy differences that exist across states in Australia, there is a great deal of work that could be done with respect to bringing alignment to policy, processes, and definitions.

The Church does have extensive policy frameworks with respect to child safety. However, they are in some respects different. Bringing alignment (and potentially joint/single authorship) in this area would allow Synods to move focus from creation to implementation.

Further, consistent compliance frameworks are required in order to provide certainty that we are fulfilling the commitments made in policy. The issue here is not compliance for the sake of checks and balances; to appease insurers; or meet legislative requirements. It is a commitment to being the people of God, offering a community in which all people can grow experiencing the love and grace of God in a nurturing supportive environment.

All our policy and procedures, all our working with children checks and other checks, all our work to meet child safe standards is in order to be the people of God in a particular place.

### **3.3 EDUCATION AND TRAINING**

Questions arising from our engagement with the Royal Commission with respect to education and training include:

- How do we ensure that everyone working with children has been trained? What is the framework for updating training?
- What materials do we use?
- What checks are done to ensure the content is up to date?

Good work has been, and continues to be undertaken in seeking to provide best practice training. However, the questions of consistency regarding the following points remain open and deserve to be clarified for all concerned:

- Expectations of who is trained;
- adequacy of training for a person undertaking particular roles in relation to children;
- portability of training; and
- cycles of updating training.

### **3.4 CULTURAL ENHANCEMENT**

Child safety and protection is most effective when it is embedded in the culture of the Church. That is evidenced in strong, up-to-date policies and procedures. Policies and procedures, or protocols/guidelines, gain traction when they are driven and reinforced by Church leaders.

This is an ongoing challenge to the whole Church. Addressing component parts of the “apparatus” of child safety in the Church will take us only part of the journey. The journey is completed when we all take responsibility for ensuring that apparatus is operating in our context.

Again, this is a function of our shared calling to be the community of Christ in our particular part of the nation. It is more than something we do; rather it is who we are.

### 3.5 FURTHER ISSUES

In addition to and related to the issues identified above, our engagement with the Royal Commission has highlighted a range of issues which deserve further exploration. Whilst incomplete, the following list identifies a range of those issues:

- Privacy principles and the sharing of information
- Inconsistencies with respect to Mandatory Reporting
- Leadership appointment processes
- Persons of Concern
- Separately incorporated entities
- Codes of conduct
- Child Safe Standards
- Professional standards
- Governance

Consequential work may be required with respect to Regulations dependent on the outcomes of the work inherent in the above.

### 3.6 THE UNITING CHURCH'S WORK TO DATE

In addition to responding to the Royal Commission and working across the Church, the National Task Group has undertaken the following pieces of work to support the Church's engagement with learnings of the Royal Commission:

#### **Child Safe Policy Framework:**

Building on the work done in 2015, it was determined to review the policy framework in light of the Royal Commission's report related to the Elements of Child Safe Institutions. This review involved a broad engagement process to locate the policy settings appropriately, whilst aligning them with the recommendations of the Royal Commission.

To support the Framework, an Implementation Plan and a resource bank were developed. These resources were distributed widely through the Church. The Task Group established a network, which includes each Synod, which along with existing networks of UnitingCare Australia and schools, works to promote and support the framework's implementation.

#### **National Audits:**

In conjunction with the development and review of Policy Frameworks, a self-audit process was initiated which invited the church to review their implementation of the Child Safe Framework. This work has developed across these years with positive feedback received as to the value of the process.

#### **Collaborative networks:**

As identified above, the National Task Group has engaged with a variety of collaborative networks to support the work of the Church. Some, as identified, have engaged in frameworks or other initiatives delivered by the Task Group, whilst others have been information and resource sharing opportunities to build collaborative capacity.

#### **Regulation Change re: withdrawal of recognition:**

The Fourteenth Assembly resolved (15.13) to authorise the Standing Committee, on the advice of the Legal Reference Committee, to make changes to the Regulations to any extent necessary to implement effective policies and practices in response to any recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

It is necessary that when the Uniting Church responds to child sexual abuse it does so effectively, and helps to prevent future abuse by sending a clear message that it is unlawful, abhorrent and will not be tolerated. These are clear recommendations from the Royal Commission and a theme of every Case Study. Further, the Royal Commission, in a number of findings made comment on the (often lack of) processes to take away a Minister's ability to hold themselves out as clergy and thereby protect children.

In light of the above, the National Task Group recommended to the Standing Committee a regulation change in line with the delegation granted by the Fourteenth Assembly. The proposal was to ask the Standing Committee to request that the Legal Reference Committee advise it of regulation changes required to automatically withdraw recognition from any Minister who is convicted of child sexual abuse; and that this advice be brought to the July 2017 meeting of the Standing Committee.

The result of the Standing Committee's deliberations, guided by the Legal Reference Committee, was to determine to change the regulations by adding Reg. 2.10.3b.:

The recognition of a Minister shall be automatically withdrawn if the Minister is convicted of a criminal offence of a sexual nature in relation to a minor.

This list does not exhaust the work of the National Task Group during this period, rather highlighting some of the key projects undertaken.

#### **4. REDRESS**

One of the considerations made by the Royal Commission was the process of 'making amends'. It was considered that redress would be the most appropriate mechanism to provide acknowledgement of the hurt caused to survivors of child sexual abuse and to seek to offer support to them into the future.

The Recommendations of the Royal Commission (in summary form) were to:

- Create a National Redress Scheme – auspiced by the Commonwealth Government - that would provide an equitable approach to redress regardless of the survivor's geographical or contextual circumstances.
- The scheme would include opportunity for the survivor to receive a direct personal response, including an apology, from the institution or Government if they wished.
- The scheme would provide access to therapeutic counselling and psychological care.
- The scheme would provide a monetary payment as a "tangible means of recognising the wrong survivors have suffered".
- Redress would be survivor focussed
- Monetary payments would be capped at \$200 000<sup>2</sup>, and any past ex-gratia payments should be factored into any Redress payment awarded.
- Redress should be funded by the Institution in which the abuse occurred. Where that is not possible, a funder of last resort function would ensure that no survivor is excluded from redress because an institution no longer exists.
- The standard of proof applied to a redress application should be 'Reasonable Likelihood'.
- Upon the completion of the Redress process, a deed of release is appropriate to indemnify the organisation against further claim.

Consistent with our values and our commitment to engaging with and learning from the Royal Commission, the Church is committed to advocating for and participating in the provision of

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<sup>2</sup> The Commonwealth Redress Scheme currently before Federal Parliament envisages a \$150 000 cap for Redress payments.

equitable and just redress for all survivors. As such, the Church implemented an Interim Redress Framework in 2016, which has governed the development of interim schemes in the Church.

Further, the Church has been engaged in:

- consultative processes with government around the development of a truly equitable national scheme;
- internal consultation regarding the redress systems and processes the Church would require to be engaged in offering redress, both through a national scheme and through any other mechanism; and
- seeking to ensure our information base was ready to process Redress applications.

This work has culminated, at this point in time, in broad engagement with the Standing Committee and Synod Standing Committees (SSCs) regarding the redress options that are currently available to the Church, and seeking information from SSCs regarding what level of detail would be required to enable SSCs to make decisions regarding their Synod's participation in any Redress scheme.

## **5. PROFESSIONAL STANDARDS PROJECT**

The UCA understands that Ministers are called to serve God faithfully and that their ministry to others should therefore be “characterised by the love, care and compassion that was embodied in Jesus Christ.” (Code of Ethics 1.6). The Code of Ethics provides an ethical foundation for that faithful ministry. That is, ministry agents demonstrate ethical behaviour consistent with their calling as expressed in the Code of Ethics.

As a result of the work of the National Conversation on Discipline, the Assembly General Secretary convened a project to explore the establishment of a set of Professional Standards for Ministers of the Uniting Church. The standards are anticipated to resource ministry agents and the church to effective ministry practice.

These National Professional Standards are not intended to set new standards, but bring together into a single document, governance and oversight that has long been at the core of ministry within the Uniting Church as expressed in the Basis of Union, the Constitution, the Regulations and the Code of Ethics. In particular these standards complement the Code of Ethics and flow from them.

The work done to date establishes what these standards would conceivably be. Further work is required to complete the standards, and to develop the surrounding framework to enable the standards to operate in the life of the UCA to support Ministers in their ministry practice.

Recognising this as another key piece of work emanating from the Royal Commission, the progress of the project is imperative. Therefore, the National Task Group requests that the Assembly refer to the Standing Committee the oversight and final approval of the National Professional Standards and supplementary work to support implementation.

## **6. PRIORITY INTO THE FUTURE**

The Uniting Church's theology and its values commitment to the Royal Commission establish a clear commitment to providing the Church as a safe place for all people.

As a community with the unique character of being shaped by the gospel of Jesus Christ, called to tell the story of Jesus Christ, we are currently faced with a challenge. How do we tell that story if people cannot hear or will not hear, because they cannot trust?

The challenge now, as the Royal Commission's work ends, is to identify how for the Uniting Church in Australia, we might express our commitment to being a safe place for all and how we might structure our ongoing response to ensure this work is continually grounded in our life.

The National Task Group has transitioned its focus from a response and engagement group to seeking to structure broad-based engagement with the Church. This work has included the development of a series of strategic project plans identifying work for the Church as a result of the Royal Commission, and our learnings for the Church. Additionally, the National Task Group has considered how best to continue to conduct and ensure full implementation of recommendations and projects arising from the Commission.

The outcome of the Task Group's deliberations has been to recommend to Synods a collaborative engagement with the Assembly to establish a Safe Church Unit. It is anticipated the Unit would be co-established by Synods and the Assembly as an institution under Reg. 3.7.4.7. It would have a governing charter delineating responsibility and accountabilities, and a governing body and reporting framework to ensure appropriate oversight and communication with the Church.

The National Task Group has conducted significant consultation across the Church with respect to the proposed structure, receiving valuable feedback ensuring a robust model delivering quality outcomes for the Church.

**Recommendations:**

That the Assembly resolve:

- (a) To reaffirm the Values Statement made at the commencement of the Royal Commission's work as a guiding values statement for the Uniting Church's ongoing response.
- (b) To note
  - i. the work done to ensure the Uniting Church participates in providing consistent just and equitable Redress;
  - ii. the work towards the creation of a Safe Church Unit in the Uniting Church; and
  - iii. the progress report on the Professional Standards Project.
- (c) To delegate responsibility for the oversight and final approval of the National Professional Standards to the Standing Committee.
- (d) To request the Standing Committee, on the advice of the Legal Reference Committee, to make changes which it deems necessary to the Regulations to implement policies and practices in response to any recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

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**Ms Colleen Geyer, Assembly General Secretary**  
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