Royal Commission
into Institutional Responses
to Child Sexual Abuse

Statement

Name	Christine Ann Foster
Address	Known to the Royal Commission
Occupation	Retired
Date	19 July 2014

1. This statement made by me accurately sets out the evidence that I am prepared to give to the Royal Commission into Institutional Responses to Child Sexual Abuse. The statement is true and correct to the best of my knowledge and belief.

2. Where direct speech is referred to in this statement, it is provided in words or words to the effect of those which were used, to the best of my recollection. Where I use the expression "we" I am referring to my husband, Anthony John Foster, and myself.

Background

3. My full name is Christine Ann Foster. My date of birth is REDACTED

4. I am married to Anthony John Foster. Anthony and I were married on 26 July 1980 in Melbourne, Victoria.

5. Anthony and I had three daughters; Emma born November 1981, Katie born July 1983 and Aimee born March 1985. As young children, our daughters were healthy and we lived a happy and successful life in both family and business areas.

6. Each of our daughters attended Sacred Heart Catholic Primary School in Oakleigh. Emma began prep in 1987, Katie in 1989 and Aimee in 1990. Beside the school was the Sacred Heart church and across the road was the presbytery where Father Kevin John O'Donnell (**O'Donnell**) lived. He often visited the primary school and its playgrounds.

7. After completing their primary school education, our daughters attended Sacred Heart Girls' College.

Signature: C. Foster Witness:

Emma's experience

8. In March 1995 when Emma was 13 years old, an article appeared in our local newspaper about O'Donnell. The article stated that O'Donnell was facing 49 charges in relation to sexually abusing boys over a 30 year period. Emma, myself and Anthony all read the article. Anthony and I were both shocked. I questioned Emma at the time whether O'Donnell had ever touched her. Emma did not immediately answer me and, after I asked her three times, finally answered "no".

9. In June 1995, we received a telephone call from one of Emma's teachers informing us that Emma was not eating her lunch and that some of her friends were worried about her. Some weeks later Emma was diagnosed with anorexia.

10. On 5 August 1995, the front page of the Herald Sun featured a photograph of O'Donnell with the headline "Paedophile priest locked up". The article explained that O'Donnell had pleaded guilty to charges of indecent assault between 1946 and 1977 against 10 boys and 2 girls and been remanded in custody. I read the article that day and struggled to process the words. The article included awful stories of victims' accounts of sexual abuse. It was the first time I learnt that O'Donnell not only abused boys but girls too. I realised as I was reading the article that the accusations against O'Donnell were no longer accusations, but offences O'Donnell had admitted to committing. They were not just allegations. They were truths. The article raised the possibility in my mind that Emma may have been a victim of O'Donnell despite her previously telling me she was not.

11. Emma's health continued to deteriorate. In early September 1995, Emma revealed to her GP that she had been experiencing suicidal thoughts. The GP informed me and referred Emma for an emergency psychiatric appointment. The GP told me to keep a very close eye on Emma, particularly until the appointment. At that appointment, Emma told the psychiatrist that she had previously attempted suicide with an overdose of painkillers.

12. On 25 September 1995, Emma was admitted to the adolescent psychiatric unit for anorexia, depression and the earlier suicide attempt. Emma continued to struggle during her time at the unit. We attended many counselling sessions individually and as a family. After two months at the unit, Emma was expelled following another suicide

attempt. When we brought Emma home, her health had not improved and she was in a much worse condition than when she was first admitted to the unit.

13. On the morning of 21 December 1995, we woke to discover that Emma had taken an overdose of painkillers. As a result, Emma was hospitalised for two days. Soon after this, Anthony and I took our daughters away for a holiday. At the outset of our time away, we experienced a number of concerning incidents with Emma, yet by the end of the trip Emma's outlook changed. She seemed happier and Anthony and I arrived home more hopeful.

14. Emma's improvement was short lived. In early 1996, Emma took an overdose of painkillers on two occasions and was eventually readmitted to the adolescent psychiatric unit. Anthony and I spoke to Emma's psychiatrist and expressed our confusion and concern. The psychiatrist told Anthony and me that Emma was displaying all the symptoms of someone who had been sexually abused.

15. We relayed what Emma's psychiatrist had told us to our own psychologist. During that conversation, our psychologist said words to the following effect:

> I concur with his opinion. I would say that Emma isn't just showing signs of someone who was sexually abused. I would say she was sexually abused. In fact, her behaviour suggests it happened repeatedly.

16. Anthony and I were shocked and we started to wonder who might be responsible. Anthony then said to the psychologist "What if I told you Emma was the favoured child of a paedophile who is currently in prison?" Anthony and our psychologist then discussed the likelihood that O'Donnell was responsible but I was not yet convinced. Initially, I could not imagine how this could have happened and wondered when O'Donnell was alone with Emma. When I thought about it I realised that O'Donnell had unfettered access to Emma at school and could have taken her from class or from the school grounds without anyone seeking my consent.

17. Our psychologist seemed to have some experience with Catholic Church related matters and arranged a meeting for us with Mr Shane Wall on 1 March 1996. While we were not exactly sure of his role, and he did not ask to see Emma, after one session with him the Catholic Church began paying for our counselling. We took this to mean that the Catholic Church had accepted responsibility for the abuse.

18. In the past I had overhead Emma say a couple of times to other children "Coke makes me drunk". I had not thought too much of it at the time. In about February 1996, Emma and I had a conversation where she said to me "Coke used to make me drunk but now it doesn't". Later that same evening, I recalled that some years earlier I had overheard a conversation between Emma and Katie. Katie had offered Emma a drink of Coca-Cola and Emma said that she did not like the taste of it. Katie seemed surprised by this and insisted that Emma should like it because it tasted nice. Emma relented and took a sip and said to Katie "It tastes different. It's ok". I then came to the realisation that O'Donnell may well have laced Coca-Cola and given it to Emma to drink.

19. The next morning I had a conversation with Emma where I reminded her of our discussion the night before. I asked Emma "What sort of drunk did the Coke make you feel?" Emma considered her answer and replied "Very drunk and dizzy and it made a loud noise in my ears". She told me this happened in the school hall.

20. Not long after my realisation, Anthony telephoned a police liaison officer familiar with the case against O'Donnell and said "My wife has told me she thinks O'Donnell might have made Emma drunk when he sexually assaulted her". Anthony then started repeating the words the police officer was saying to him out loud so I could hear. Anthony said "He used to drug kids, it was part of his MO".

21. On the evening of 27 March 1996, about one month after Emma's second admission to the psychiatric unit, we received a telephone call from the unit informing us that Emma had cut herself and that she had disclosed to a nurse that she had been sexually abused by O'Donnell. The next day I attended a meeting together with Anthony, Emma and her psychologist. The psychologist asked Emma's permission to repeat her disclosure to us and Emma sat in a ball on a chair nodding as the psychologist repeated Emma's account of the sexual abuse by O'Donnell. In addition, Emma told us she remembered a door with a sign "SHOWER" on it beside the stage in the Sacred Heart parish hall. She said O'Donnell took her through the door and into the room. She said they were alone. She said O'Donnell sat her on his knee and did awful things to her.

22. Some time later photographs were taken of these areas that Emma referred to. We feel sick to think of our daughter alone in there with O'Donnell.

23. The day after Emma's disclosure we telephoned Father Ted Teal, our parish priest. We asked him to come to our house to talk about Emma. At this stage Emma had been in and out of the adolescent psychiatric unit for about six months. We felt we finally had an explanation of her difficulties. We told Father Teal of Emma's disclosure of abuse by O'Donnell. Father Teal was sympathetic, but as he was leaving our home, and with his back to us, he said "Don't tell anyone".

The Oakleigh Forum

24. By letter dated 1 May 1996, we and other parents petitioned Father Teal for a meeting between the Catholic Church and the parents whose children attended Sacred Heart while O'Donnell was parish priest. The letter was signed by many parents.

25. By letter dated 7 June 1996, Monsignor General Cudmore, the Vicar General of the Archdiocese of Melbourne, wrote to our psychologist stating "I am most anxious to provide assistance in whatever form may be necessary to the child, her family, other families and to the parish as a whole who may have suffered abuse".

26. On 25 June 1996, a preliminary meeting was held and attended by several representatives of the Catholic Church including Monsignor Cudmore. It was Monsignor Cudmore who had established the Pastoral Response Office which offered counselling to victims of catholic clergy sexual abuse. The Pastoral Response Office indicated to us at the meeting that it wanted to run the Oakleigh Forum. I was reluctant to hand over control of the forum to the Catholic Church but I felt pressured to do so.

27. On 29 July 1996, the Oakleigh Forum was held. Approximately 250 people attended. We arranged for a psychologist to speak at the forum about situations that lead to child assault and signs to look for in children that may indicate that they have been abused. Monsignor Cudmore was to attend the forum but did not. The priest who replaced him, Father Joe McMahon, said that he "wondered why he was there" and after the forum I felt that many questions were left unanswered.

28. On 10 August 1996, I read an article in the Age newspaper which recorded comments of the then Archbishop designate of Melbourne, George Pell. It reported Archbishop Pell as agreeing that "Payments to victims across Australia could involve millions of dollars" and further that "I don't know what we will be up for. If we have to borrow

money we will, whatever the tab". The article also reported that Archbishop Pell had said that the Catholic Church would not play "legal games" with victims.

29. On or about 14 August 1996, we received a letter from the Pastoral Response Office which stated "After our discussion this morning I'd like to reiterate that this office is able to obtain financial provision for therapeutic care for yourself, Anthony and your whole family, if needed".

The Melbourne Forum

30. In September 1996, the Pastoral Response Office invited some of us to become part of the Victims' Advisory Group in preparation for the Melbourne Forum. I understood the Melbourne Forum to be an initiative of the Pastoral Response Office to address the issue of catholic clergy sexual abuse throughout the Catholic Archdiocese of Melbourne.

31. On 19 October 1996, Anthony and I attended the Melbourne Forum. Archbishop Pell and a number of other Catholic Church leaders took the stage. I cannot now recall the names of the other Catholic Church leaders. I participated in the Melbourne Forum as did a number of other people, including victims. During the Melbourne Forum one of the Catholic Church leaders announced that the Melbourne Response would be formed. There was not much detail given at that time.

32. For the purposes of the Melbourne Forum, I wrote a letter dated 19 October 1996 on behalf of the parents from our Oakleigh parish group which was critical of the Catholic Church. I asked someone else to read my letter aloud as I did not trust my composure. My letter was read out to the Melbourne Forum and was met by applause from others in the audience. When the reader reached the part of my letter which said "To these criminals, and they are criminals, you offer asylum, so their offences are not brought to light...." the Catholic Church leadership stood up and walked off the stage and did not return.

33. In the days that followed, Anthony and I came to the view that the purpose of the Melbourne Forum had not been to facilitate communication between victims and the Catholic Church hierarchy as we had hoped. Rather the event seemed designed to announce what we would later know as the Pell Process or the Melbourne Response. We reached this view because of the attitude demonstrated by the Catholic Church

leaders in attendance on the day. They did not engage with the audience. They seemed standoffish and they were separated from us, sitting up on the stage. They did not appear to want to listen to parents describe the horror of finding a sexual offender in the very heart of their parish. They walked out on us.

Details of the Melbourne Response are announced

34. On 30 October 1996, eleven days after the Melbourne Forum, the details of the Melbourne Response were announced. Anthony and I read about the details in the newspaper and elsewhere. Around this time we received a brochure entitled "Sexual Abuse – The Melbourne Archdiocese Response" which was signed by Archbishop Pell.

35. From this material we understood that there were three components to the scheme. First, a victim's complaint would be directed to a Catholic Church appointed Independent Commissioner who was to investigate and decide if the allegation of abuse was valid. If the Independent Commissioner found the allegation to be valid, the victim then moved to the second section of the scheme which was the Compensation Panel. The Compensation Panel was responsible for deciding the amount of money to be offered to the victim, capped at $50,000. Any money paid was ex-gratia, meaning it was given with no admission of responsibility or liability for damage. The final component of the scheme was Carelink. If an allegation was accepted, victims could go to Carelink to receive counselling or treatment costs.

36. Our immediate reaction to reading the details of the Melbourne Response was outrage. Anthony and I considered $50,000 to be an entirely inadequate amount to compensate Emma for the lifelong damage caused by the sexual abuse.

37. In his letter of 7 June 1996, Monsignor Cudmore had accepted O'Donnell's abuse of Emma and had offered whatever help was necessary for the whole family. Now Emma had to apply for what would be capped assistance. We felt betrayed.

38. Around this time we learned that accepting a payment through the Melbourne Response meant signing a document that released the Catholic Church from any and all further claims. Anthony and I also learnt that Professor Richard Ball had been appointed to run the Carelink component of the Melbourne Response. As such, he was in charge of responding to and looking after victims of catholic clergy sexual abuse. I felt very uncomfortable about this because a Victorian police liaison officer,

REDACTED had previously told me that Professor Ball gave expert evidence on behalf of the defence in the criminal case against O'Donnell. REDACT also told me that Professor Ball had provided reports to defence lawyers acting for other paedophile priests and brothers, including Ridsdale, Glennon, Gannon and Best.

39. Anthony and I were profoundly shocked that Professor Ball was responsible for the counselling arm of the Melbourne Response. I felt that this was not fair to victims. To me, it demonstrated a lack of understanding of how victims might feel and the need for a separate, independent and safe place for victims to go for help. It is for these reasons that I was too horrified to deal with Professor Ball and we declined to do so for quite some time.

40. In the brochure entitled "Sexual Abuse – The Melbourne Archdiocese Response", Archbishop Pell quoted the Catholic Bishops of Australia pastoral letter of 1996 stating that "In seeking to do what is possible, our major goals must be: truth, humility, healing for victims, assistance to other persons affected". Our experience with the Melbourne Response over time led Anthony and I to believe that this statement was nothing but empty words.

Request for O'Donnell to be stripped of his clerical status

41. In about November 1996, Anthony and I approached Father Teal to ensure that O'Donnell, now a convicted sex offender, was stripped of his clerical status. An appointment was subsequently made for us to speak with Father Ross McKenney, a canon lawyer from a neighbouring parish. On 5 December 1996, Anthony and I met with Father McKenney. The meeting did not go well. Anthony and I told him that we wanted the Catholic Church to laicise O'Donnell as his crimes against children made him unfit for the title. Father McKenney scoffed in response and said "We can't do that".

Invited to seek assistance under the Melbourne Response

42. On 5 December 1996, we received a letter enclosing forms from the Pastoral Response Office that requested that Anthony and I authorise the transfer of our files from the Pastoral Response Office over to the new Melbourne Response, that is, to Carelink and to the Independent Commissioner. The attached materials said that this was "in order to receive the appropriate assistance from either Mr O'Callaghan in

reference to complaints and compensation matters, or Professor Ball (Carelink) for psychiatric, psychological counselling and support services". When Anthony and I later applied for compensation under the Melbourne Response as secondary victims, our application was refused by Mr O'Callaghan.

Archbishop Pell's visit to Oakleigh

43. In mid-December 1996, Anthony and I received notification that Archbishop Pell would visit Oakleigh to meet with a group of about 30 parents in February 1997. Anthony and I were informed that Archbishop Pell wished to meet with us prior to meeting the group. On 17 February 1997, we met with Archbishop Pell. During our meeting we discussed the Melbourne Response. Anthony said to Archbishop Pell that we viewed the new scheme as a cost saving measure by the Catholic Church and to the detriment of victims. Part of the reason we had this view was due to the cap and its restrictions. In response, Archbishop Pell said to Anthony "If you don't like what we're doing, take us to court". We also raised with Archbishop Pell our opposition to Professor Ball being appointed to Carelink. Archbishop Pell responded that Professor Ball "was the best man for the job". Our objections and concerns about Professor Ball fell on deaf ears. Professor Ball occupied his position for many years.

44. After our private meeting with Archbishop Pell, we attended the larger group meeting. Victims shared their stories during the meeting and asked Archbishop Pell a number of questions. One of the questions asked was in relation to known paedophiles still serving in parishes in Melbourne. Archbishop Pell's response was "It's all gossip until it's proven in court and I don't listen to gossip".

Emma's application under the Melbourne Response

45. In March 1997, we made the decision to go through the Melbourne Response to seek help for Emma. With our assistance Emma signed and lodged the 'Application for Compensation Form'. Emma was then 15 years old. We met with Peter O'Callaghan QC, the Independent Commissioner, and he interviewed Emma.

46. On 24 April 1997, we consulted solicitors Williams, Winter & Higgs. We had felt quite powerless in our dealings with the Catholic Church thus far and decided to redress this imbalance by seeking independent legal advice. We wanted to see what other options there might be to try to get some help for our whole family. Our solicitors informed us

that it would be very difficult to sue the Catholic Church and suggested that we initially seek assistance through the Victims of Crime Assistance Tribunal as an alternative to the Melbourne Response.

47. In May 1997, applications for assistance were lodged with the Victims of Crime Assistance Tribunal on behalf of each of us. We then put those applications on hold. I thought that, from an ethical point of view, the Catholic Church should be the entity providing the assistance. Despite the initial legal advice I had received I was hopeful to find a way to bring a civil claim.

48. Following Emma's application to the Melbourne Response, I submitted invoices for Emma's medical treatment to Carelink for payment. On or about 24 June 1997, I received a letter from Reverend Monsignor Denis Hart, the Vicar General of the Archdiocese of Melbourne, as he then was. The letter expressed the view that Medicare and/or our private health insurance should be relied on to pay Emma's outstanding medical accounts. I thought that this was inappropriate. It seemed to me that the Catholic Church wanted to transfer responsibility for Emma's medical expenses from itself and onto tax payers (through Medicare) and onto our private health insurer. This did not feel right to me.

49. At around this time, Carelink had been contacting us frequently seeking to set up a meeting with Professor Ball. I felt pressured. Despite my objection to his role, I relented. On 29 July 1997, we met with Professor Ball. Professor Ball made a tape recording of our meeting. When we questioned Professor Ball about his assessment report of O'Donnell used in the criminal trial, Professor Ball admitted to making his assessment after meeting O'Donnell only once. I expressed my view that he should have known, in his expert opinion, that O'Donnell was likely to reoffend, and was likely to have committed more offences that he had admitted to in that criminal case. Professor Ball, in regard to the provision of counselling to our family said "that should be our responsibility". I understood this to mean that in his view, Carelink and/or the Catholic Church should be providing counselling to our family.

50. On or about 3 October 1997, we received a letter from Mr O'Callaghan informing us that he proposed to make a formal finding that he was satisfied that Emma was the victim of sexual abuse by O'Donnell.

51. On or about 28 April 1998, we received a letter from Mr O'Callaghan enclosing a copy of his proposed report to the Compensation Panel in respect of Emma. Mr O'Callaghan invited us to provide him with comments in respect of the draft.

52. On or about 10 June 1998, we received a letter from Mr O'Callaghan advising he had written to the Chairman of the Compensation Panel regarding his finding regarding Emma.

53. On or about 8 July 1998, we received a letter from Mr David Habersberger QC, the Chair of the Compensation Panel, informing us of an appointment to see the panel on 11 August 1998 in relation to Emma's application.

54. On or about 7 August 1998, we received a letter from Corrs Chambers Westgarth (**Corrs**) ahead of Emma's appointment with the Compensation Panel outlining the legal issues around Emma being a minor.

55. On 11 August 1998, we attended the Compensation Panel to plead Emma's case. We knew the cap was only $50,000. When we arrived, we were greeted and escorted to a meeting room where a number of men and women sat around a large table. I can only recall details of two of the panel members that attended. One was Mr Habersberger and the other was a young lawyer from Corrs who acted for Archbishop Pell and the Archdiocese of Melbourne. Anthony stated to the panel:

> You have the reports of what has happened to Emma, I do not want to upset myself further by talking about it now. I believe you should pay Emma the full compensation amount of $50,000.

56. Mr Habersberger agreed that we did not need to go over Emma's sufferings and we were grateful for his kindness. He said that a letter would be sent to us at a later date informing us of Emma's compensation amount. Following our discussion with the Compensation Panel, I approached the lawyer from Corrs. I spoke to him about the costs our family had incurred in our attempts to improve Emma's life as a result of the sexual abuse, including moving schools. At that point in time, I calculated that we had spent approximately $15,000. This was only the expenses for which I had actual receipts. He said to me "Oh, the ex-gratia compensation payment Emma receives will cover that". I was unimpressed and responded by asking him whether he expected me to take $15,000 from Emma by way or reimbursement of these expenses.

57. I then approached Mr Habersberger with my request. He listened and suggested that we speak with a more senior lawyer as what we were asking for was not covered by Carelink or the ex-gratia payment.

58. On or about 31 August 1998, we received a letter from Corrs confirming that the Compensation Panel had recommended to Archbishop Pell that Emma be offered the maximum amount of compensation being $50,000. The letter said it was an alternative to litigation which would otherwise be strenuously defended. Enclosed with the letter from Corrs was a personal letter addressed to Emma dated 26 August 1998 from Archbishop Pell. In that letter Archbishop Pell offered Emma a personal apology for the wrongs and hurts she suffered at the hands of O'Donnell.

59. In the same envelope was a letter dated 12 August 1998 from Mr Habersberger suggesting that we contact Mr Richard Leder of Corrs about Emma's incurred expenses. Anthony rang Mr Leder to inquire about reimbursement of these expenses. I was in the room with Anthony when he made the telephone call. To each requested item Mr Leder replied "I can't help you with that. What else can I help you with?" Anthony asked about the next item on the list. Again Mr Leder replied "I can't help you with that. What else can I help you with?" And so it continued until there was nothing left to say.

60. Neither Anthony nor I ever had any sense about how the amounts of compensation were decided by the Compensation Panel. We were provided no information in relation to any criteria that was applied to Emma's application by the Compensation Panel and no appeal process was offered. Nothing about this process was transparent.

61. Emma received a letter dated 3 December 1998 from Corrs which I saw and read. The letter confirmed Emma's acceptance of the compensation offer and informed her that the next step would be to establish a trust in which the funds were to be held until she turned 18. From this we understood that Emma must have communicated to Corrs her intended acceptance of the offer of $50,000.

62. On or about 8 February 1999, Emma received a letter from Corrs enclosing a proposed trust deed.

63. On or about 22 September 2000, we asked our solicitors to write to Mr O'Callaghan informing him that Emma was still considering the offer made to her.

Katie's experience and application under the Melbourne Response

64. In November 1997, we learned that Katie too had been sexually abused by O'Donnell. I discovered a suicide note Katie had written. The note said that her sister had been abused by O'Donnell and that she had been abused by O'Donnell too. We made an appointment for Katie to see a psychologist. From that point onwards, Katie saw a psychologist weekly.

65. In early 1998, we assisted Katie to lodge an application for compensation under the Melbourne Response as we had done with Emma.

66. On 29 June 1998, Mr O'Callaghan interviewed Katie about the sexual abuse of her by O'Donnell.

67. We understand that Emma and Katie did certain things to try to find relief from the suffering caused by the sexual abuse perpetrated against them by O'Donnell. While Emma took to drugs to obtain respite from her traumatic memories Katie began to binge drink to find relief. Twice we had returned home from work to find Katie very drunk. I believe that if Katie had not been subjected to ongoing sexual assault by O'Donnell she would not have resorted to binge drinking.

68. On 28 May 1999, Katie was crossing a road while she was under the influence of alcohol. Katie was hit by a car and the impact stopped her heart and caused a number of bleeds and swelling to her brain. Katie was in a comatose state for about four months and remained in hospital for almost one year. The accident left her with permanent brain damage. For the rest of her life, Katie will require 24 hour care. While it remained a priority for us to continue working towards bringing a case against the Catholic Church, we were faced with many challenges and adjustments to our lives following Katie's accident. On 26 May 2000, Katie left hospital and returned home to us.

69. In our solicitor's letter of 22 September 2000 to Mr O'Callaghan, Mr O'Callaghan was asked to confirm his previous verbal advice that he accepted that O'Donnell had sexually abused Katie.

Anthony and Chrissie's applications under the Melbourne Response

70. On 13 September 1998, Anthony and I applied for compensation through the Melbourne Response on behalf of ourselves.

71. By letter dated 17 November 1998, Mr O'Callaghan rejected both Anthony and my application for compensation. The letter stated "the Compensation Panel will have no finding from me that you are entitled to be treated as a victim and will presumably act accordingly".

Civil litigation considered

72. Between 1997 and 1999, we exchanged many letters and phone calls with our solicitors in respect of our options for seeking compensation. By 1999, we needed to make a decision in respect of our applications to the Victims of Crime Assistance Tribunal because of the time limitations that applied. Our solicitors suggested a meeting with a barrister, Mr Tim Seccull.

73. On 26 February 1999, we met with Mr Seccull and our solicitors to discuss possible common law actions we could take against the Catholic Church. At that meeting, we confirmed with our solicitors that we wanted to pursue civil legal action against the Catholic Church rather than continuing with the Melbourne Response or the Victims of Crime Assistance Tribunal. Emma and Katie also attended the meeting and each gave statements to Tim in relation to the abuse by O'Donnell.

74. Mr Seccull informed us at that meeting that the next step in preparing a case against the Catholic Church was to have Emma and Katie assessed by a medico-legal psychiatrist with expertise in trauma. On 17 March 1999, both Emma and Katie met with the specialist. Nine months later we received drafts of the reports.

75. Due to the complex nature of our case it took our solicitors and Anthony and I quite some time to reach the point where we were ready to go ahead with the civil claims.

Mr O'Callaghan visits our home

76. On 6 May 1999, about six months before Emma turned 18, Mr O'Callaghan made an appointment to visit our home to discuss Katie's application to the Melbourne Response. Mr O'Callaghan informed us during his visit that he would make a finding for Katie the same as Emma's, that O'Donnell had sexually abused Katie. Mr

O'Callaghan also wanted to talk privately to Emma, I assumed, about accepting the offer of $50,000. We had told Emma not to accept the offer as we knew this would end all her rights. We did not allow Mr O'Callaghan to speak privately with Emma. A week to 10 days later, Mr O'Callaghan rang me at work asking if I had engaged lawyers. I neither confirmed nor denied that we had engaged lawyers.

Civil litigation

77. In 2002, we instructed our solicitors to commence five separate legal proceedings in the Supreme Court of Victoria on behalf of Anthony, Emma, Katie, Aimee and me. The following defendants were named in each proceeding:

    77.1. Noreen Harrison the former principal Sacred Heart Primary School (First Defendant);

    77.2. Emeritus Archbishop for the Diocese of Melbourne, Sir Frank Little (Second defendant);

    77.3. Archbishop for the Diocese of Melbourne, the Most Reverend Denis J Hart (Third defendant);

    77.4. Roman Catholic Trust Corporation for the Diocese of Melbourne (Fourth defendant);

    77.5. Reverend Father Hilton Deakin (Fifth defendant – former Vicar General); and

    77.6. Reverend Father Anthony Guelen (Sixth defendant – served with O'Donnell at Dandenong).

78. The proceedings in relation to Anthony and I were issued on or about 22 March 2002. The proceedings in relation to Emma, Katie and Aimee were issued on or about 28 October 2002. The proceedings were served on the defendants some time later in 2003. Our solicitors informed us that Corrs was acting for each and every one of the defendants.

79. The proceedings in relation to Emma and Katie made a claim for damages for injuries sustained as a result of the sexual assaults perpetrated on them by O'Donnell whilst in attendance at Sacred Heart Catholic Primary School. The proceedings alleged that the sexual assaults occurred in premises owned and operated by the first to fourth

defendants whilst Emma, Katie and O'Donnell were under the care and control of the first to sixth defendants. Further, it was alleged that the sexual assaults occurred at a time subsequent to the first to sixth defendants becoming aware of O'Donnell's propensity to behave dangerously and inappropriately with young children.

80. In particular, it was alleged against the first to fifth defendants in the statements of claim that:

80.1. In or about 1958, complaints were made by REDACTED and Mr REDAC REDACTED in respect of the interference by O'Donnell with a young boy. Such complaints were made to Monsignor Lawrence Moran, the then Chief Administrator for the Diocese of Melbourne; and

80.2. In early 1992, Reverend Father John Silvano complained to the fifth defendant (Hilton Deakin) about the inappropriate behaviour of O'Donnell with young children.

81. Further, it was alleged against the sixth defendant, Reverend Father Anthony Guelen, that his breach of duty was in:

81.1. Failing to act upon his observations of O'Donnell engaging in inappropriate behaviour with a young boy whilst in the Diocese of Melbourne, in or about 1958;

81.2. Having made the observation referred to above, failing to communicate the nature of same to the appropriate authorities, including the then Archbishop of the Diocese of Melbourne and Victoria Police; and

81.3. Having made the observation referred to above, failing to ensure that O'Donnell was not permitted contact and/or involvement with young children.

82. The claim for damages was made on the basis that Emma and Katie suffered injuries as a consequence of the sexual assaults by O'Donnell and or the negligence and breach of duties of the first to sixth defendants.

83. The proceedings relating to Anthony, Aimee and I differed in relation to the nature of the injuries we each sustained. The claim for damages was made on the basis that we each suffered injury by way of nervous shock as a consequence of the sexual assaults

by O'Donnell perpetrated against Emma and Katie and or the negligence and breach of duties of the first to sixth defendants.

84. On or about 7 May 2004, our solicitors received defences on behalf of the first to sixth defendants. In each of the proceedings, the defences said that the statement of claim did not disclose a cause of action and was liable to be struck out. Our solicitors provided us with a copy of the defences at the time. Anthony and I were both shocked to find that in Emma and Katie's proceedings, the defendants did not admit that O'Donnell subjected the girls to sexual abuse. Further, the defendants denied that Emma and Katie had suffered shock, personal injury, loss and damage as a consequence of a breach of their respective duties. Mr O'Callaghan had previously made formal findings that O'Donnell sexually abused Emma and Archbishop Pell had offered Emma a personal apology. Mr O'Callaghan had also verbally indicated to us that he would make findings that O'Donnell sexually abused Katie.

85. In October 2004, amended statements of claim and defences were filed and served in each of the proceedings. The parties were due to give discovery in December 2004. In December 2004, our solicitors informed us that Corrs had foreshadowed it would seek to strike out parts of our statements of claim in each proceeding and therefore would not be providing discovery.

86. By February 2005, our solicitors had still not received the defendants' foreshadowed strike out application. In about early March 2005, we instructed our solicitors to seek a without prejudice meeting with the solicitors for the defendants. Due to unavailability of various persons, the without prejudice meeting did not take place until 24 June 2005. Following the without prejudice meeting, we instructed our solicitors to recommence settlement discussions by way of mediation. Again, due to unavailability of various persons, the mediation was delayed and did not take place until November 2005.

87. On 7 November 2005, a mediation session was held between our legal representatives. We were represented by Mr Stanley QC and Mr Seccull on the day. Anthony, Emma, Katie, Aimee and I also attended the offices of the mediation and sat in a room next door while the mediation took place. Our solicitors sought our instructions throughout the entire mediation process. We instructed Mr Stanley to make it clear to the defendants that we were not prepared to resolve our cases for the

amount of money available under the Melbourne Response and that we were prepared to go to trial.

88. The defendants initially offered us a figure of $250,000 plus costs with no ongoing entitlement to Carelink and no indemnity in respect of the Health Insurance Commission. We instructed Mr Stanley to make a counter offer of $1.5 million plus costs. The defendants then made a counter off of $350,000 on the same terms as first offered. At this point Anthony then entered the mediation and spoke directly to the legal representatives for the defendants. Following Anthony's discussion, we instructed Mr Stanley to make a counter offer of $750,000 plus solicitor/client costs in all cases, an ongoing entitlement to Carelink and an indemnity in respect of the Health Insurance Commission. The defendants made a counter offer of $500,000 on the same terms. We instructed Mr Stanley to reject the defendants' offer and inform them that $750,000 was our bottom line.

89. Finally, the defendants made an offer of $750,000. The offer included payment of our costs taxed on a solicitor-client basis unless otherwise agreed and an indemnity in respect of any payments to the Health Insurance Commission but no ongoing entitlement to Carelink. We made the decision to allocate the settlement sum of $750,000 to each of us as follows:

    89.1. Emma: $450,000

    89.2. Katie: $220,000

    89.3. Aimee: $30,000

    89.4. Anthony: $25,000

    89.5. Me: $25,000

90. On 3 March 2006, the terms of the settlement were agreed and executed by our solicitors. The settlement was conditional on the approval of the settlement of Katie's proceedings by the Supreme Court of Victoria. Each of the proceedings was settled without any liability being admitted on the part of any of the defendants and further terms and conditions. We agreed to release and forever discharge the defendants and any person who was, is, or who becomes the Archbishop of the Catholic Archdiocese

of Melbourne from any claims arising out of the proceedings or the assaults by O'Donnell on Emma and Katie.

91. Further, we agreed not to make any further claim for expenses or compensation arising out of the proceedings or the assaults by O'Donnell on Emma and Katie including assistance provided through Carelink. This affected us greatly as our family heavily relied on support and counselling services for Emma and Katie. We have learnt from our experience that lifelong support of victims and victims' families is crucial in dealing with the effects of child sexual abuse. This is simply because the effect that child sexual abuse has on people is lifelong so the support offered needs to be lifelong.

92. We agreed that the terms of the settlement would remain confidential between the parties and undertook not to disclose any part of the terms to any other person other than as required by law.

93. In or about April 2007, our solicitors received a cheque for payment of our legal costs in the amount of $122,000.

Counselling offered by Carelink, then retracted during civil litigation

94. In December 2002, before proceedings were served, a new staff member of Carelink by the name of Elizabeth Harding contacted us wanting to meet for a coffee. She was very compassionate and asked why we were not seeing a psychologist. She told us that we, including Aimee, should be getting treatment and to send her the accounts for payment. Up until that point the Melbourne Response had refused to pay for intermittent therapy for Anthony, Aimee and I. At her invitation, Anthony and I began seeing a local family therapist to assist us through our struggles.

95. On or about 17 January 2003, Mrs Maheras received a letter from Ms Harding authorising counselling for "the Foster family". Mrs Maheras told us she was sending accounts directly to Carelink for payment.

96. Mrs Maheras advised me that she had received two telephone calls in November 2004 from Ms Harding stating that Mr O'Callaghan had not approved the payment of our counselling expenses and that he had "hit the roof" about it. Mrs Maheras provided me with notes of the two telephone calls. Mrs Maheras has sadly now passed away. Mrs

Maheras told us that the Catholic Church immediately stopped paying for our counselling and even refused to pay for the previous month's accounts.

Impact on our lives

97. Emma first suffered anorexia in June 1995 and until mediation in November 2005, she had visited doctors, specialists and pathology services about 906 times plus at least 75 outpatient psychology appointments and more than 52 admissions into hospital, detox and rehabilitation clinics. Despite all this professional help and our love for her, our Emma sadly never recovered from the sexual abuse she suffered. Her life continued to spiral out of control and in January 2008, she took her own life.

98. Katie has never recovered from being hit by a car while binge drinking to escape the memories of her sexual assault. She will always require 24 hour care.

99. Aimee has suffered since the age of 10 witnessing the disintegration of her sisters' lives. She has also been deprived of our attention over the past 18 years with our time spent caring for Emma and Katie.

100. In July 2008, whilst on holiday in England and during the lead up to the Pope's visit to Sydney for World Youth Day, we were made aware of media coverage about Cardinal Pell. It was alleged that Cardinal Pell had sent two contradictory letters to victims of a particular catholic clergy sex offender, each letter bearing the same date. Anthony was interviewed on the ABC TV Lateline program on 15 July 2008. We made the decision to cut our trip short. We wanted to return to Australia and travel to Sydney in an attempt to meet and convince the Pope of the need for changes to how the Catholic Church responds to victims of catholic clergy sexual abuse.

101. During our journey to Sydney, on a stopover in Tokyo, we were made aware of a comment by Bishop Anthony Fisher, in response to the Lateline interview where he referred to us as "dwelling crankily....on old wounds". Emma had died only six months earlier. We lived with the pain of our wounds daily, and still do. We found these comments to be very hurtful.

102. On arrival in Sydney we condemned Bishop Fisher's comments and during the following days we requested a meeting with the Pope. We were ignored by the Catholic Church. The Pope left Sydney without meeting us.

103. The conduct of the Catholic Church aggravated our suffering including by the inconsistent responses we received over time about whether or not they believed Emma and Katie, and whether or not they would assist Anthony and I by paying for our counselling.

104. The civil litigation process took our family almost 10 years to complete. It required countless hours of effort at a significant personal cost and the help of our dedicated legal team. We are of the view that we settled for an amount of money that was far less than what our children were entitled to. Even so, it was a far better result than we could have hoped for from the Melbourne Response. With the settlement funds Emma was able to purchase a house. Katie was able to move into her own home which was specially designed to take into account her disabilities. Very few victims, however, are afforded the support our children had to be able to achieve such a result.

Subsequent events

105. In 2009, I co-authored a book with Paul Kennedy titled "Hell on the Way to Heaven" which details the devastating impact of events upon our family. It was published in 2010. I have prepared a timeline of events.

106. On 23 November 2012, Anthony, Katie, Aimee and I gave evidence to the Victorian Inquiry Into The Handling Of Child Abuse By Religious And Other Organisations.

107. We met with Cardinal Pell in Sydney in March 2014 following his appearance at the Royal Commission. We stated our position of wanting the Melbourne Response compensation cap removed and all previous and future cases to be re-assessed in line with civil limits. He agreed with our proposal to review the Melbourne Response and said he would speak to Archbishop Hart. We then met with Archbishop Hart in Melbourne in April 2014. Archbishop Hart agreed to review the situation and invited us to be part of the consultation with the aim to present the results to this hearing.

Our recommendations

108. Based on our experience, our view is that the Melbourne Response should be re-evaluated to ensure it complies with the legal and moral standards of our society to ensure and enable just compensation and care for all victims. Civil levels of compensation ought to be awarded to victims. There should be no time limit for civil or criminal claims in regard to sexual crimes against children. We would like to see an

independent reassessment of all past claims under the Melbourne Response to more adequately reflect the levels of compensation that could be achieved if victims took legal action against the Catholic Church. To be clear, we think it is appropriate to revisit every previous settlement under the Melbourne Response to make sure proper financial compensation was paid.

109. We had the means and ability to guide our daughters through the Melbourne Response process, however not all victims have that same level of support. Even as parents of victims, we found the experience to be daunting. From the moment we entered the meeting with the Compensation Panel, we felt intimidated. Based on our experience, we consider that victims without adequate support or legal representation would feel intimidated and overwhelmed by the whole process.

110. Our understanding is that the three stages of the Melbourne Response are intended to be independent from one another. This is not reflective of our experience with the Melbourne Response. The Independent Commissioner's role is to determine whether an assault has occurred yet we were faced with a situation where the Independent Commissioner requested to speak with Emma, we assumed, in relation to accepting the offer of $50,000. We found this to demonstrate a lack of independence.

111. Having experienced both the Melbourne Response and the legal system as a means of gaining compensation, our view is that the legal system is a far superior option than engaging in the Melbourne Response. We would like to see changes to the legal system to allow victims to receive full and just compensation for what has happened to them.

112. We also support the introduction of a redress scheme funded by the responsible institutions as an alternative to, but not replacing, victims' recourse to the legal system. To this end we commend the COIN submission to Issues Paper 6 to the Royal Commission.

Signed: C. Foster

Date: 19th July 2014

Witness:

Date: 19th July 2014