

SUBMISSION

to

The Commonwealth Royal Commission into Institutional Responses to Child Sexual Abuse

from

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Re. Issues Paper 1 – Working With Children Check

PREAMBLE

This submission is made in relation to the Working With Children Check (WWCC) legislation in the State of Victoria (Working With Children Act 2005) and the Catholic Archdiocese of Melbourne's Working With Children Protocol, 12 April 2007.

I address myself to the specific matter of the WWCC as it applies to priests working in the Archdiocese of Melbourne.

I do not make any comments regarding the WWCC obligations or arrangements governing the operation of priests in any other Catholic diocese or state jurisdiction.

BACKGROUND

The Victorian Parliament has recognised the imperative need to offer a level of protection from ill-intentioned or predatory adults for one of the most vulnerable sections of the community – children.

This protection is provided within the framework of the Victorian Working with Children Act 2005 (the Act).

The Act is broadly a statutory obligation for adults who work regularly and closely with children to undergo a suitability check leading to the issue of a WWCC designed to assist in ensuring that such adults can confidently be permitted to work with children.

Typical examples of the categories of adults covered by the legislation are teachers, carers and priests.

GENERAL APPLICATION OF WWCC PROTECTION

Different workplaces, situational environments and employers make employment or engagement conditional upon a positive WWCC being obtained by any person who is required to work with children.

This “first level” of child protection is ideally supported by individual policies, practices and protocols designed by employers or responsible agencies to provide additional and specific checks or restrictions to suit different circumstances.

In this way, a WWCC is the statutory base upon which there can be further appropriately-designed tiers of protection provided as required or deemed necessary.

STARK DIFFERENCES BETWEEN PRIESTS AND OTHERS

Most applicants for a WWCC (consider teachers as an example) are persons who will, in the exercise of their duties and responsibilities, give direction to children under their care and control and demonstrate a degree of power in this regard.

The exercise of this power and control is confined to the limits of the person's role, eg. a teacher would not be expected to influence the behaviour of a class by using, for example, "mind control" techniques or conjuring tricks. Rather, the expectation from parents whose children are being taught and cared for by a teacher is that any control is of a benign and persuasive nature in keeping with the teacher's qualifications and training in pedagogy.

This could be quite different if considering a WWCC application from a priest.

The following is a reasonable description of a Catholic priest, as understood by the Catholic laity :

A priest is by definition a "supernatural" person. A priest accepts and dedicates to a vocation or calling from God. A priest is trained , over a long period of time, to communicate with God and to act as a conduit for God's will. A priest is the means by which bread and wine (by the Doctrine of Transubstantiation) is converted into the actual body and blood of Jesus Christ.

Priests can forgive sin and order penance for transgressions – all this is carried out by a priest as representing God.

No other human beings are given the power and authority from God to carry out these acts.

The general unquestioning belief by adherents to the Catholic faith that priests are imbued with these supernatural powers represents a higher possibility and opportunity for the power to be abused.

CONSIDERING WWCC APPLICATIONS

I suggest that the Victorian Justice Department should approach WWCC applications from priests in an entirely different manner to other applications for the reasons above.

I appreciate that the current WWCC legislation does not allow for this differentiation to occur and so it would require amendments to the Act.

Currently, the Act provides "the Secretary" with significant ability to issue a WWCC to an applicant who has convictions for offences that a casual observer may think would naturally disqualify the applicant from holding a positive WWCC.

This situation of discretion is amplified within the context of a priest applicant as described above.

WWCC APPLICANTS FROM OVERSEAS

In recent years, the Archdiocese of Melbourne has experienced a gradual decline in the numbers of priests available for common "operational" work. These shortages are due to a number of factors –

the high average age of the “priest pool”, priests leaving the vocation, less men undertaking training as priests etc.

The Archdiocese has sought to address these difficulties in a number of ways – amalgamation of neighbouring parishes in an attempt to rationalise resources, using retired priests to offset shortages and also the practice of sourcing priests from overseas locations, most commonly the Indian sub-continent and the Philippines.

Priests who arrive to take up parish postings are invariably young, comparatively inexperienced and come from a cultural context where the priest is considered special, beyond reproach and supernaturally superior.

However, the overseas priests are obviously required to operate as functionaries of the Archdiocese and as such to comply with all statutory requirements.

For a priest, there are two “checks” that are obligatory – one is a National Police Check and the other is the WWCC.

I suggest that some quite obvious problems present themselves in relation to an overseas priest successfully obtaining these two positive checks. The difficulties, as I see them, are that the Australian authorities would not have a domestic records base for any of these priests, ie. they are not Australian citizens, they were not born in Australia and they invariably only have a visa to work in the country for a limited time.

In addition, the countries of origin of the priests have long and well-documented histories of public corruption, where documents and records to suit any requirement would (one could assume) be readily available “at a price”.

My concern therefore is in relation to the availability or value of any requisite documentation provided by these countries in support of the bona fides of the overseas priests for the purposes especially of a WWCC.

Bear in mind that the check is not to determine if an overseas priest has ever transgressed the road laws of his country – this is a vital and critically important check of the character, behaviour and criminal records for the purposes of determining suitability to work with, and have access to, children in Australia.

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