

# PRIVATE CONFESSION

## PASTORAL GUIDELINES WITH SPECIAL REFERENCE TO CHILD SEXUAL ABUSE

### Preamble

#### 1. The practice of making a private confession

According to both Church law and custom the Anglican Church provides for the private confession of sins in the presence of a priest. This practice is regulated by Church Law. The ministry of absolution has the following elements:

- The desire of the penitent to unburden the conscience in order to receive the benefit of absolution together with spiritual counsel and advice.
- The making of a confession of sin by the penitent according to a rite of the Church (a form for the confession of sins and pronouncement of absolution may be found in *An Australian Prayer Book* and in *A Prayer Book for Australia*).
- After hearing the confession the priest absolves the penitent. **A priest may decline to pronounce absolution or may defer absolution where it is clear that some further action is required by the penitent.**

Canon Law also regulates what is known as the Seal of the Confessional. This means that a priest must not reveal any sin that is revealed when hearing a confession.

It is important to note the difference between *admission to a sin* and *confession of a sin*. If a person admits to a crime the priest may be bound to report the matter to the police. If a penitent confesses a sin which is also a crime the priest is bound by the Seal of the Confessional.

Should a priest form the view that a person wishes to reveal a criminal offence, the priest should immediately give an explanation of the limits to confidentiality and the conditions of the granting of absolution if a formal confession (according to a Rite of the Church) is made. These may include reporting the criminal offence to the police and making reparation to the victim. If a person wishes to proceed with the formal confession then the priest and the would-be penitent should go to some private place (ideally the parish church) where the confession would be heard.

It is essential that a Rite of the Church is used. If a Rite of the Church is not used the priest may have no privilege to refuse to disclose the confession in legal proceedings in

jurisdictions where such a privilege is available and could be found guilty of contempt of court for refusing to reveal the matter of the confession.

## **2. Private Confession of Sins in the Anglican Church of Australia**

Provision for private confession of sins and absolution in the Anglican Church dates from both before and after the Reformation. Provision was contained in the Book of Common Prayer of 1662, as well as in the earlier books of Common Prayer of 1549 and 1552. This provision was clearly retained in both An Australian Prayer Book and A Prayer Book for Australia.

It is the law of our Church that when a private confession is made in the presence of a Priest the matter of that confession is not to be revealed. This law is contained in Canon 113 of the Canons of The Church of England of 1603 and also in the Canon Concerning Confessions 1989 which was adopted at the General Synod of 1992. The Canon Concerning Confessions was then adopted by every diocese in Australia except the Diocese of Ballarat. The Diocese of Sydney adopted the Canon Concerning Confessions in 1993, however it was repealed by ordinance in 1997. This means the Canon Concerning Confessions 1989 is the law of the church in every diocese except the Diocese of Ballarat and the Diocese of Sydney where Canon 113 of 1603 applies. It is the law of our church that when a private confession is made in the presence of a priest the matter of that confession is not to be revealed.

According to Canon 113 of 1603 there is one exception in relation to what is known as the Seal of the Confessional. The relevant part of that Canon reads as follows: *Provided always, That if any man confess his secret and hidden sins to the Minister, for the unburdening of his conscience, and to receive spiritual consolation and ease of mind from him; we do not any way bind the said Minister by this our Constitution, but do straitly charge and admonish him, that he do not at any time reveal and make known to any person whatsoever any crime or offence so committed to his trust and secrecy, (except they be such crimes as by the laws of this realm his own life may be called into question for concealing the same), under pain of irregularity.* In Australian law there is no provision for a person to be executed because of concealing a crime of which that person has knowledge. Therefore this exception to the Seal of the Confessional is not applicable in Australia. In other words, under the terms of that Canon the Seal is absolute.

The Canon Concerning Confessions 1989 makes the following provision in relation to the Seal of the Confessional. *If any person confess his or her secret and hidden sins to an ordained minister for the unburdening of conscience and to receive spiritual consolation and ease of mind, such minister shall not at any time reveal or make known any crime or offence or sin so confessed and committed to trust and secrecy by that person without the consent of that person.*

The proviso contained in the General Synod Canon Concerning Confessions relating to the Seal indicates that the Seal is not binding on the priest who hears the confession if the penitent agrees that such matter may be revealed. This exception has generally been acknowledged by Anglican authorities.

## **3. The Seal of the Confessional and the Law**

The question of whether the law requires disclosure of the content of a confession to which the proviso of Canon 113 or the *Confessions Canon* applies can arise in two different contexts:

- (a) firstly, where there is a statutory obligation to report child abuse; and
- (b) secondly, when questions are asked about a confession and its contents in court proceedings.

The position as to the mandatory reporting of child abuse differs significantly between the States and Territories. Similarly the position as to the disclosure of a confession in court proceedings differs significantly between the States and Territories. The law is set out on the General Synod website.

It must, however, be remembered that Church law is clear about the Seal of the Confessional that a priest must not reveal any matter disclosed by a penitent in the confessional apart from the proviso of Canon 113 or the *Confessions Canon*.

#### **4. Issues relating to the Seal of the Confessional and Child Sexual Abuse**

Until relatively recent times the grave damage that abuse did to the abused person was not properly understood. It was widely assumed that it was an unpleasant experience for a child to be abused but it was not understood that this form of abuse, unlike a broken bone or a serious illness, very often resulted in severe psychological and spiritual damage which would impact upon abused children for the rest of their lives, or for many years, with grave and serious ongoing consequences for personal relationships.

It was also not understood until relatively recent times that sex offenders are very often recidivists. In the light of this understanding and of the enormous suffering that abused people experience it is desirable for the Church to issue special guidelines with reference to private confession and child sexual abuse. This is particularly important given the fact that the Seal of the Confessional is still part of the law of the Church. Resolution 24 of the 2001 General Synod requested the House of Bishops to identify appropriate teaching resources and develop pastoral guidelines for the hearing of private confessions, and to address particular issues raised by confessions of child sexual abuse by a member of the Clergy or a lay leader.

The report of the Clergy Discipline Working Group to the 2001 General Synod referred clearly to the obligation of a priest not to disclose the matter of a confession.

#### **5. Principles Applicable to Private Confessions of Sins and Absolution**

The report of the Clergy Discipline Working Group noted in paragraph 25 that three elements must be present before absolution is pronounced: contrition; a full and honest confession of sins; and a purpose of amendment.

The report further noted in paragraph 26 that: *Contrition and purpose of amendment would require the following action by the penitent in certain circumstances:*

- a) *where the conduct has caused injury to another person, then reparation or the making of amends for the injury done will be necessary. Where appropriate the priest may give advice as to what sort of reparation will be necessary;*
- b) *where the conduct is criminal, then the reporting of that conduct by the penitent to the Police or other appropriate authority may be necessary;*
- c) *where the penitent is a member of the Clergy and the conduct is inconsistent with the standards to be observed by members of the Clergy, then the reporting of that conduct by the penitent to the bishop of the diocese may be necessary;*
- d) *where the penitent is a lay leader and the conduct is inconsistent with the standards to be observed by the members of the Church, then the reporting of that conduct by the penitent to the person appointing the penitent to his or her leadership may be necessary.*

## **6. Issues relating to the confession of child sexual abuse**

The Report of the Clergy Discipline Working Group stated in paragraph 27:

*Special care will need to be taken in the case of a confession of child sexual abuse. It is important for a member of the clergy to whom a confession of child sexual abuse is made to be aware that this area of criminal activity involves the following common elements:*

- a) *the abuse is usually secretive and known only to the abuser and the victim;*
- b) *offenders generally do not stop at abusing unless there is some intervening factor;*
- c) *often there is a distortion of cognition involved, for example, a belief that the victim enjoyed the sexual interaction;*
- d) *the abuse generally begins with something minor, and gradually builds up to more involved sexual interaction through a process of grooming;*
- e) *the abuse continues because the child often adopts some form of survival behaviour which the offender interprets as acceptance of the activity;*
- f) *whether based on a preference or not, offenders generally enjoy the activity;*
- g) *the sexual abuse is generally not a self-contained incident – it is part of a relationship that is corrupting and violating;*
- h) *when exposed, offenders will generally attempt to justify, minimize or excuse their behaviour, ranging from blaming the victim, to claiming their behaviour was a result of their own abuse or that they were under the influence of stress or alcohol; and*
- i) *offenders are mostly recidivists.*

Paragraph 29 states:

*It follows that in a case of a confession of child sexual abuse by a member of the clergy or lay leader the priest could not responsibly pronounce absolution until appropriate reparation had been made by the penitent. This reparation, apart from exceptional cases, would include an apology to the victim, and the reporting of the conduct both to the police or other*

*appropriate authority and to the bishop of the diocese or to the person appointing him or her to the position of leadership, as the case may be.*

It will sometimes be inappropriate for such an apology to be made face to face. The guiding principle should be the wishes of the abused person. If the abused person does not wish to have face to face contact with the abuser, then the apology should be in writing. If, however, the abused person is willing to meet the abuser, then the apology should be given in person. Where the abused person is still a child, then the wishes of the child's parents or guardians must be respected.

## **7. The action of the priest hearing a confession relating to child sexual abuse**

- a) The priest must closely question the penitent concerning the nature of the abuse and the frequency of the abuse.
- b) The priest must indicate to the penitent the grave nature of the sin and the dire consequences abuse will almost certainly have on the abused person.
- c) Before pronouncing absolution, if the priest believes the conduct to be criminal, then apart from exceptional circumstances\*, the penitent would be required to report that conduct either to the police or other appropriate authority.
- d) The serious consequences of child sexual abuse have already been noted. The experience of the community at large is that great care must be taken where child sexual abuse has occurred. In particular it is important that people with special training and expertise should handle such matters. It is therefore recommended that the granting of absolution in such cases be reserved to priests holding a special licence or authority from the Bishop. This would mean if a priest heard a person making confession involving child sexual abuse that priest (if not an authorised priest) would be bound to say to the penitent, "I am not authorised to pronounce absolution, however I will facilitate an authorised priest to hear your confession for this purpose".

\* Exceptional circumstances would include a confession made by a person near death.

### **Guidelines for the Hearing of Confessions and the Granting of Absolution with special reference to Child Sexual Abuse**

1. Care must be taken when a penitent comes to confession that the confession is heard and absolution is pronounced according to an authorised rite of the Church.
2. The granting of absolution in confessions involving child sexual abuse is reserved to priests holding a special licence or authority from the bishop.
3. All confessions involving child sexual abuse are to be referred forthwith to a priest holding the bishop's licence to administer absolution in such cases. In other words the priest (unless specially licensed) **must decline to pronounce absolution and refer the matter on.**
4. The penitent is to be given clear direction to seek help and counselling from people qualified to do so.

5. Priests holding the bishop's licence are to receive appropriate training and to be properly informed about what professional help is available.
6. Absolution must be withheld until the priest is satisfied that there is genuine repentance and, apart from exceptional circumstances, until the penitent has reported the matter to the police or other appropriate authority.

*Note: This protocol agreed on 1 March 2011 replaces Protocol 008 agreed on 8 March 2006.*