



Monday, 18 May 2020

**Pastoral Letter to the
Catholic Community of the Archdiocese of Perth
The Most Rev Timothy Costelloe SDB
Archbishop of Perth**

Dear sisters and brothers in Christ,

On Thursday, 28 November 2019 the McGowan Government introduced the *Children and Community Services Amendment Bill (2019)* to the Legislative Assembly of Western Australia. The purpose of this Bill is to amend the *Children and Community Services Act (2004)* to introduce mandatory reporting of child sexual abuse for ministers of religion. On Wednesday, 13 May 2020 the McGowan Government introduced the Bill for debate. Under the proposed legislation changes, Catholic priests would be required to report child sexual abuse that was disclosed to them during Sacrament of Penance. Put simply this means that if the Bill is passed into law it will become a criminal offence for priests in Western Australia to remain faithful to the teaching and tradition of the Catholic Church, which holds that any information gained by a priest in the course of celebrating Confession is subject to the requirement of absolute and unbreakable confidentiality – what is generally known as the Seal of Confession.

In commenting about this matter the Honourable Simone McGurk MLA, Minister for Child Protection; Women's Interests; Prevention of Family and Domestic Violence and Community Services made the following comments:

“The Royal Commission into Institutional Responses to Child Sexual Abuse has demonstrated that the actions of institutions and individuals who concealed knowledge of sexual abuse provided a refuge and protection for perpetrators.

“The revelations of George Pell’s knowledge of sexual abuse within the Catholic Church are damning. The actions outlined in the findings released by the Royal Commission last week are completely unacceptable.

“The McGowan Government has taken the next step in implementing the Royal Commission recommendations by bringing the Children and Community Services Amendment Bill on for debate in the Legislative Assembly.

“We know that there is some opposition to the proposed extension of mandatory reporting of child sexual abuse to information gained by religious ministers during confession.

“To date, the Catholic Church has resisted change in this area, and publicly opposed breaking the seal of confession. The Catholic Archbishop of Perth has made his position on this very clear.



“Following the revelations about George Pell and what he knew about abuse occurring within the Church, it’s time for the Church’s leadership to put child safety first.

“The extension of mandatory reporting to ministers of religion signals very clearly that child safety is the number one priority.

“I call on the Archbishop to make that statement by supporting this legislation in full.

In view of the Minister’s direct “call” to me, and because of the importance of this matter for the Catholic Church, I am writing to you now to set out the position of the Church, and my position as the Archbishop of Perth, in relation to this issue.

As is so often the case, what is a very complex matter is being presented by some as a very simple thing: you can put child protection first, or put the Church’s teachings first, but you cannot have both. To explain why I do not accept this assertion will take time. I hope you will bear with me as I seek to explain, in what is inevitably a lengthy and detailed letter, the Church’s position on this matter.

The Royal Commission’s Acknowledgement of the Sacrament of Penance, the Pope and the Universal Law of the Catholic Church

Firstly, I must inform you that I have written to the Minister, and have sent copies of my letter to the Premier and the members of the Western Australian Cabinet. I will also make my letter available to the relevant members of the Opposition Shadow Cabinet. I have made my letter to the Minister available to you at the end of this Pastoral Letter, and have made this letter publicly available on the Archdiocese of Perth’s website. I am not a politician and I believe very strongly in the separation of Church and State which is such an important principle in any secular democracy. I am instead the Archbishop of the Catholic Archdiocese of Perth. I have a responsibility to provide leadership and guidance for you, the Catholic people of the Archdiocese, as you seek to live out your faith in the concrete realities of day-to-day life in this part of the world at this time in our history. Each of us must be faithful to our own conscience, but as Catholics we believe that the Church’s teachings and traditions provide us with a way to ensure that our consciences are fully informed as we make decisions as to how we can best live our lives in fidelity to God, whose first and most fundamental gift to us is life itself. Both the primacy of conscience, and the obligation to develop an informed conscience, are basic elements of Catholic teaching and belief. They have relevance in the context of the present issue I am presenting to you.

Secondly, in my letter to the Minister I have sought to make a number of points: they are distinct but closely related.

The first point is this. In calling on me to make a statement in support of the extension of mandatory reporting to include information gained by a priest during the hearing of a person’s Confession, the Minister is in effect calling on me to invite Pope Francis to remove me from my office as the Archbishop of Perth. I would no longer be in formal communion with the Pope on a matter of fundamental Church teaching. In Catholic belief, formal communion with the Pope is an essential requirement for every bishop. The deliberate and public breaking of that communion would place me outside the communion of the Church: I would be effectively excommunicated.



Furthermore, if I were to make such a statement and any priest in the archdiocese were subsequently to act on it by revealing what he had learned during the course of a Confession, that priest would be automatically excommunicated and unable to function as a priest.

The simple fact is that no priest, bishop, archbishop or cardinal has any authority whatsoever to change the universal teaching or laws of the Church. The Pope is the universal legislator in the Catholic Church and ultimately only the Pope can make changes to the Church's law. Pope Francis, for reasons I will explain later in this letter, has indicated that he will not, and indeed cannot, make such changes.

It is, then, disingenuous for the Minister to call on me to do something which she knows, or should know, is simply not open to me. *The Royal Commission into Institutional Responses to Child Sexual Abuse* was aware of this: it is why their recommendation in relation to the Sacrament of Confession was that Rome should be asked to address this issue. The Royal Commission understood that it was impossible for the Church in Australia to make any such changes. Therefore, it is also impossible for the bishops in Australia to publicly support any laws which would require priests to betray their solemn obligations in relation to Confession. In calling on me to make a statement which is supportive of the government's intention to criminalise the maintenance of the confidentiality of Confession, the government may indeed be signalling its commitment to child protection but it is doing so by requiring of me something that it knows, or should know, I simply cannot do.

In her remarks, the Minister makes her position, and presumably the position of the government, very clear:

"The extension of mandatory reporting to ministers of religion signals very clearly that child safety is the number one priority."

"I call on the Archbishop to make that statement by supporting this legislation in full."

The implication of these remarks is that if I do not support the legislation I am guilty of not making child safety the number one priority. I do not accept this assertion and regard it as a slur on my own character, and also on the commitment of all those people in the Archdiocese of Perth who have worked with me over the past eight years, and continue to work with me now, to ensure that our Catholic parishes, schools, agencies and institutions are places of safety and security for all children and young people. The work which has been done and is continuing in our Catholic school system and other agencies to continually improve, monitor and review all aspects of child safety and security should be acknowledged, applauded and supported. The extraordinary work of our Professional Standards Office in responding to complaints of sexual abuse, and of our Safeguarding Office and the army of safeguarding officers in our parishes who are "on the ground" to ensure the safety and well-being of children and young people who are part of our communities, are clear, practical and effective ways of demonstrating that "child safety is the number one priority".

Owning Our Past: the Foundations for Safeguarding Children and Young People in the Catholic Church in Australia in 2020

In relation to the safety and well-being of children and young people the Catholic Church in Australia, and here in the Archdiocese of Perth in 2020, is very different from the Church thirty, forty or fifty years ago, when the horror of sexual abuse of the young was, to our shame and deep sorrow, prevalent in so many of the Church's institutions. The crimes and sins of those Catholics, whether they were clerics, religious or lay, who abused children and young people



must be condemned. The actions or omissions of Catholics, whether they were in positions of leadership or not, who covered up these crimes or in other ways failed to take action, must obviously be condemned, especially if they were the result of malice, callous disregard for the young, or a selfish desire to protect the reputation of the Church at any cost. If, instead, they were the result of poor judgement or a flawed misunderstanding of the pernicious and intractable nature of this kind of sexual abuse, they must be profoundly regretted. The care of those who have suffered so much because of their abuse must be, and must ever remain, a fundamental aspect of the Church's mission and of the Church's responsibility.

It is painful and humiliating to acknowledge that statements such as these, and the actions which must flow from them, were not and probably could not have been made even as recently as thirty years ago. This reflects very badly on the culture and mindset that was so influential in those times. But the statements **are** made now, and the actions which must flow from them **are** an essential feature of the life of the Church now. Child safety continues to be the number one priority. The Archdiocese of Perth was the first of Australia's Catholic dioceses to begin to establish Safeguarding Officers across its network of parishes. The Safeguarding Office is responsible for ensuring the safety of children, young people and the vulnerable within the confines of the Catholic Church across the Archdiocese of Perth, educating the Catholic community on child protection and protective behaviours, and establishing Safeguarding Officers within Perth's metropolitan and rural parishes.

The Sacrament of Penance in the Catholic Tradition: Beliefs and Practices

A further point I have made in my letter to the Minister, and which I want to address more fully here, concerns the **reasons why** the Church cannot change its teachings on the requirement for the absolute confidentiality of Confession.

The reasons for the Church's position are two-fold. Firstly, they concern the practical arrangements for Confession in the Catholic tradition. Secondly, they concern the more fundamental theological reasons, the fundamental belief-structures, which underpin the Sacrament of Penance or Reconciliation in our Catholic understanding.

Firstly, let me set out the practical considerations.

The proposal to extend mandatory reporting to cover information a priest gains in the process of hearing a person's Confession seems to presume a number of things:

- that priests are regularly, or at least not infrequently, hearing the Confessions of sexual predators;
- that priests are aware of the identity of the people whose Confessions they are hearing;
- that people are always very specific in detailing the nature of the sins they confess;
- that in Confession people often, or at least sometimes, speak explicitly of being abused by someone else or intimate that this is happening to them.

While it is true that priests rarely speak about their experience of hearing Confessions, even among themselves and certainly never in ways that might reveal the identity of people who come to Confession, it is possible to point out the following:

- Anecdotally it seems that most priests have rarely, if ever, had the sin and crime of sexual abuse confessed to them. Some prominent priests, such as Fr Frank Brennan SJ, have publicly alluded to this. I am not a psychologist and have no expertise in that area, but according to my understanding many sexual predators do



not acknowledge, even to themselves, the true nature of their offending. They are unlikely to confess something about which they do not feel guilty.

- In the Catholic tradition the possibility of an anonymous Confession must be provided. Often the physical arrangement of the Confessional or Reconciliation Room is such that anonymity is assured. In addition, there is nothing that obliges a person to confess to a priest who knows him or her. Often, in fact, a person will deliberately seek out a priest to whom they are unknown. And this, presumably, is particularly the case if a person is conscious of matters about which they are deeply ashamed. It is easier to lay bare their soul to someone whom they do not know and whom they will not need to meet again.
- Confession in the Catholic tradition is a religious ritual. It is not a counselling session. Long and involved discussions are normally not part of the Sacrament. Nor is the priest expected to press a person on the specific details of the sin he or she is confessing. Sometimes sins are confessed in general rather than specific terms.
- And lastly, if an adult reveals in Confession that he or she was abused by someone else, or if a child reveals that he or she is being abused by someone else, then the priest can, and should, make it very clear to the person that as soon as the Confession has been completed the priest is available to speak privately with the person to explore ways in which the priest can assist the person to report the abuse to the police. As long as the priest does this sensitively, and reassures the person concerned that he, the priest, stands ready to assist the person in any way he can, then the very real possibility exists that the abuse can be stopped and the perpetrator brought to justice.

Of course in the above case, if the priest is designated as a mandatory reporter of any information he gains **apart** from what hears in the course of a Confession, he would be obliged to inform the police of anything he hears which is not governed by the Confessional Seal. I will briefly return to this issue a little later in this letter.

In summary the suggestion that a priest will gain enough specific knowledge in the course of hearing a Confession to be certain of the precise details of a particular person's sins, including the identity of the person making the Confession and perhaps that of other people involved, derives more from the depiction of Confession in books and films than it does in real life.

Because of this the proposal to make priests mandatory reporters of information about sexual abuse of the young gained in the course of hearing a Confession involves criminalising something which in reality would appear to hardly ever occur.

Many people would say, of course, that even if it does happen just once in the course of a priest's lifetime, it is still important to have the legislation in place to protect that one person who might be saved from further abuse.

In fact, the opposite is the case. Because of the particular nature of the Church's beliefs about the Sacrament of Confession or Reconciliation, and especially in terms of the relationship of the Sacrament to the Church's belief about the forgiveness of serious (mortal) sin and the eternal destiny of us all, it is always possible that a person who is guilty of the sin (and crime) of sexual abuse of the young might indeed come to Confession. Keeping in mind all that I have said above about the availability of anonymous Confession in our tradition, the very fact that a perpetrator comes to Confession provides the priest with an opportunity to do all he can to bring the perpetrator to his or her senses and lead them to understand the gravity of what



they are doing and the need for them to do whatever is required to bring their criminal offending to an immediate end, even if, as is most likely, this will mean handing themselves over to the police. Recognising the reality of what I said above about the inability or unwillingness of perpetrators to even acknowledge that what they are doing is wrong I acknowledge that this is an unlikely, though not impossible, scenario. But what is even more unlikely is that a perpetrator will come to Confession and acknowledge his or her sin if he or she knows that as soon as they open their mouth the priest will be legally obliged to do everything he can to report the offender to the police. The one possibility that a perpetrator might be persuaded, in the context of a serious religious encounter, to finally face the reality of what he or she is doing and take immediate action to bring it to an end, would be lost. The end result of the priest being designated as a mandatory reporter of what he hears in Confession will be that abuse which might have been stopped will now instead continue.

Apart from the above considerations, which indicate the difficulties in the proposed legislation from a practical point of view and which invite us, therefore, to wonder whether or not this move is primarily an attempt to demonstrate the government's and society's abhorrence of child sexual abuse and its anger towards and disdain of the Catholic Church, there are serious theological, that is faith-based, reasons why the Church is simply unable to change its teaching on the Seal of Confession. I fully recognise that people outside the Church, and possibly some inside the Church, will not see the force of these faith-based reasons and may reject the Church's teachings as unacceptable. Nevertheless, what I want to share with you now **is** the teaching of the Church about a matter of great importance for us.

The Sacrament of Penance and the Teachings of the Catholic Church

The Sacrament of Penance (Reconciliation, Confession) is a personal and intimate encounter between God and the individual penitent, which is mediated by the priest in his sacramental identity as one who acts "in the person of Jesus Christ". This is the firm teaching of the Church, reiterated and strengthened by the Second Vatican Council (cf. *Lumen Gentium* 10, 28). I do not pretend to be an expert on the way in which other Christian traditions, including some who practice some form of religious confession, understand their ordained ministry, but for us, when a person comes to Confession he or she comes to encounter Christ, through the ministry of the priest. What the priest, therefore, hears in Confession is not information he is free to reveal because it is not shared with him – rather it is shared with the Lord whom he represents. When Jesus was challenged about his practice of forgiving sin "because only God can forgive sins" he agreed and then went on to demonstrate through the healing of a paralytic that as the divine Son of God he was indeed able to forgive sin (cf. Matt 9:1-8). Only God can forgive sin. When, therefore, the priest in Confession begins the absolution and says "I absolve you from your sin" he is not speaking in his own name but in his identity as the sacramental representation of Jesus Christ, the divine Son of God. Confession, then, in the Catholic tradition is an encounter with God, the depths of which we have perhaps hardly begun to appreciate.

It is within this understanding that much of our theology and practice of Confession sits. In particular, it is within this understanding that the Church's insistence that Sacramental Confession is the only ordinary way in which serious (mortal) sin can be forgiven (CCC 1484), must be appreciated. Clearly God is **not limited** by the Sacraments of the Church but God has **bound himself in an unbreakable way** to the sacraments. The absolute freedom of people to access the Sacrament of Reconciliation to seek divine forgiveness of sins which have cut them off from God, calling into question their eternal salvation, is quite literally for Catholics a matter of life and death. It is precisely this consideration that lies at the heart of the Church's insistence that anything revealed in Confession is revealed to God alone, and the priest simply has no right to reveal anything he hears to anyone else. The right to the



Sacrament of Reconciliation necessarily carries with it the right to know that everything said in the Confession remains with God and the penitent. To destroy this right is to undermine people's confidence in the sacrament to such an extent that many people, afraid of being betrayed by the priest, may avoid seeking forgiveness from those sins which have cut them off from God and, in doing so, put at risk their eternal salvation.

I do not expect the government to believe what the Church believes and am quite prepared to accept that many people, including some in the government, would regard our belief in this matter as peculiar, laughable or even pernicious. Be that as it may, what I have set out here **is** the belief of the Church and constitutes a fundamental aspect of our faith and of our practice of our faith.

Asserting and Maintaining the Religious Rights and Freedoms of Catholics

What the government's proposed legislation represents, therefore, constitutes a violation of the right of Catholics in this state to practice their deeply held beliefs freely and without government intrusion. The proposed changes will, inevitably, undermine the trust of some and perhaps many Catholics in the confidentiality of Confession. It will certainly prevent people conscious of the grave sin, and crime, of sexual abuse from seeking forgiveness for their sins and in the process find themselves confronted by the very clear and urgent need they have to do everything possible to bring the abuse to an end. It may well also discourage children and young people from coming to the one person they believe will respect their confidence and be able to support them as they confront the terrible experience of abuse in their own lives. The proposed legislation is, in this sense, likely to make some children not more safe but less so.

It is for these reasons, and not from any stubborn refusal on the part of the Church to confront the horror of sexual abuse in our own communities and our own history, that I reluctantly took the step of responding in writing to Minister McGurk's public comments concerning my attitude and the attitude of the Church I represent to the proposed legislation. It is for the same reasons that I have felt the need to share with you the actions I have taken in responding to the Minister and to write this lengthy pastoral letter to each of you in order that you may understand just why, in the face of so much criticism, the Church continues to hold fast to the sanctity and inviolability of the Seal of Confession. It is also for these reasons that I have, at the end of this letter, provided access to a copy of my letter to the Minister for your information.

An Enduring Commitment to Child Safety and Safeguarding

As Catholics we will inevitably be subjected to much criticism over this matter. Depending on the outcome of the government's present efforts we may well face challenges in the future. If my actions cause you any difficulties or subject you to ridicule, over and above what so many of you are already encountering because of your Catholic faith, I apologise. I can only reassure you that I am acting in accord with my own deeply held beliefs and conscientious convictions, my understanding of the Church's teachings, and my sense of responsibility to you as your bishop, in bringing all of this to your attention.

The sexual abuse of minors is a serious crime with devastating effects on the abused person and their families. Anyone guilty of such a crime must be punished according to the law.

The Catholic Church remains fully committed to the safety of children and young people. Any person with allegations of sexual abuse by Church personnel should go to the police. Our Catholic Professional Standards Office stands ready to assist people to do so.



Most Rev Timothy Costelloe SDB
Archbishop of Perth

In these difficult times I ask you to recommit yourselves to the safeguarding initiatives in place across all our institutions, to continue to pray often for all those who have suffered sexual abuse within our communities and to care for and support them in any way you can, and to remember also in prayer all those, including myself, who are working so hard to make our children and young people safe.

Yours sincerely in Christ

+ Timothy Costelloe SDB

Most Rev Timothy Costelloe SDB DD
Archbishop of Perth

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