

THIS IS A STATEMENT BY ARCHBISHOP COSTELLOE OF PERTH 5/12/2019



Statement on the Seal of Confession

By the Most Rev Timothy Costelloe SDB Archbishop of Perth Thursday 5 December 2019

On Thursday November 28, while I was attending the annual November meeting of the Australian Catholic Bishops Conference in Melbourne, the Western Australian Government issued a media release announcing its intention to expand the categories of people designated as mandatory reporters in relation to child sexual abuse. Included now as mandatory reporters in the proposed arrangements are ministers of religion who will be required by law to report to the authorities any belief founded on reasonable grounds that a child is being or has been abused. This includes any belief formed on the basis of information received during the hearing of a religious confession.

As the Catholic Archbishop of Perth I fully recognise that the intention of the government in seeking to make ministers of religion mandatory reporters of knowledge about the sexual abuse of minors, including knowledge acquired in religious confessions, is to protect children and young people from sexual abuse. I am in full agreement with such a goal. As a society we now understand much better than in the past how destructive such abuse is, and how long-lasting the terrible damage caused by this abuse can be. We must do all we can to prevent such abuse from occurring, or continuing.

The serious nature of the crime of sexual abuse means that only in the most extreme of cases should there be any exceptions to the rule of mandatory reporting. Our greater knowledge of the destructive nature of sexual abuse leads to the inevitable conclusion that such exceptions should be narrowed as much as possible.

Prior to this proposed legislation mandatory reporters of sexual abuse in Western Australia included doctors, nurses, midwives, teachers, police officers, boarding supervisors, the Principal Registrar, a registrar or a deputy registrar of the Family Court, family counsellors, family consultants, family dispute resolution practitioners and arbitrators or legal practitioners independently representing the child's interests. It did not include, among other groups, the legal profession (other than for those independently representing the child's interests) those practicing in the area of psychological counselling (other than those mandated under the Family Court Act 1997, WA) and ministers of religion. These exceptions have until now been maintained to safeguard values important to society: the right to legal representation and to the presumption of innocence until proven guilty; the right to privacy in seeking psychological treatment from professionals so as to ensure that such treatment is accessible; and the right to manifest one's conscience before God and seek divine forgiveness and healing. Behind all these exceptions is the principle that people have a right to access help of a legal, psychological or religious nature.

In the case of the ritual of Confession (the Sacrament of Penance or Reconciliation) in the Catholic tradition, the priest only receives any information in his capacity as a minister of Jesus Christ: the person making the confession does so to God through the ministry of the priest. One of the most fundamental purposes of sacramental confession is to receive divine forgiveness for sins committed. This forgiveness is dependent on the sincerity of the person making the Confession and therefore requires a firm commitment not to sin in this way again. Such a commitment may later, tragically, be broken, but it must be present and sincere if the divine forgiveness sought by the sinner is to be received.

It is this nature of Confession as a personal encounter between a sinner and God, mediated by the priest, which gives rise to the requirement in Catholic teaching that the priest has no right to reveal to anyone anything he learns in the course of this ministry. In the case of serious sin, including the terrible sin of the sexual abuse of minors, to remain in this “state of sin” is to risk one’s salvation. For believers, therefore, this is quite literally a matter of life and death. The Church’s insistence on the inviolability of the Confessional Seal is an inescapable consequence of its belief in the destructive power of sin and the forgiving and healing power of the Sacrament of Confession. Anything which would compromise the freedom of a person to seek divine forgiveness in Confession, or discourage them from doing so, could put at risk a person’s eternal salvation.

For those who do not share the belief of the Catholic Church in regard to the fundamental questions of sin, eternal salvation, and the divine nature of the sacramental encounter between the priest and the person confessing sin, such considerations may seem laughable or superstitious at best, and dangerous and deluded at worst. Many will dismiss them as patently inadequate to justify the continuing insistence on the inviolability of the Confessional Seal. Nevertheless, these are the sincerely held and firm beliefs of the Catholic Church, and are fundamental to the practice of the Catholic Faith. They explain why the Catholic Church is unable to change its teachings on this matter: they explain why I, as the Archbishop of Perth, have no authority to abolish the requirement on Catholic priests to maintain the absolute confidentiality of the Confessional.

The proposed changes to the law, which would effectively make priests who remain faithful to their obligations liable to criminal prosecution, are aimed at making children and young people safe from sexual abuse. There are a number of matters to be considered in evaluating this proposition.

The first is the presumption, widely held by many, that the confessing of the sin of child abuse is common. In reality, of course, people only confess what they acknowledge to be wrong. Many abusers do not recognise the evil of their actions and so would not seek absolution in the Confessional for their sins.

The second presumption is that priests know the identity of those who come to them for Confession. In practice Catholics are free to go to any priest to confess their sins. People who are particularly ashamed of their sins, or conscious of the terrible gravity of their sins, will almost certainly seek out a priest who does not know them. Furthermore, people who are concerned about preserving their anonymity will seek out a setting where the traditional form of anonymous confession is available. The priest hearing the Confession in such a setting will not see the person making the Confession and will have no idea of the person’s identity.

The third presumption is that people will be very specific in the details they disclose in the course of the Confession. Often, however, the sin will be confessed in general rather than specific terms.

These are all aspects of the Church's practice of Confession. Therefore the likelihood of the priest having enough knowledge to make any kind of meaningful report is minimal.

Notwithstanding the above, if priests are designated as mandatory reporters of information they gain in the Confessional, the already slim likelihood that a child abuser will come to Confession will be further diminished. The risk of exposure to criminal proceedings would be too great. This will mean that there will be no opportunity for a priest hearing the Confession of a child abuser to do his best to convince the penitent that he or she must take every step open to them to ensure that the abuse stops, including seeking professional help and handing him or herself over to the authorities. Similarly, if a young person comes to Confession seeking advice and support from the priest in dealing with the situation of abuse in which he or she finds themselves, but is desperate not to have their situation shared with anyone else, it is no help to the young person if he or she knows that the priest is legally obliged to report this matter to the authorities.

Every priest knows that in the case of sexual abuse, whether it is confessed by a perpetrator or raised by a young person seeking help, the priest has a right and an obligation to do everything he can to provide counselling and practical assistance. Apart from insisting with a perpetrator that he or she must take steps to bring the abuse to an end, including handing him or herself over to the authorities, the priest will always make it very clear to the perpetrator, or to the young person disclosing his or her abuse, that he is ready to provide any assistance he can and that, once the ritual of the Confession is completed, if the person is willing to raise the matter again, even immediately, the priest will be able to take action. Of course, in such a scenario, with the Confession itself completed, the priest is no longer bound by the Seal of Confession and any subsequent disclosures fall under the mandatory reporting provisions.

In relation to an abuser acknowledging his or her abuse of a child, and the priest having the opportunity to insist that the abuser takes immediate steps to bring this abuse to an end, I have no idea how often, if ever, this has happened. It nevertheless remains a possibility and could lead, and may in the past have led, to a person stopping the abuse.

We, therefore, do not know how many children and young people may have been spared the horrors of abuse because an abuser, confident in the anonymity of the Confessional, was assisted by the priest hearing the Confession to get help, abandon his or her abusive behaviour, and make some attempts to repair the damage which had been caused. Nor do we know how many children and young people, confident in the anonymity of the Confessional, found the support and understanding of the priest, and his willingness to help them confront the terrible situation they were facing, invaluable in helping them bring the abusive situation to light. What we can be sure of is this: if the anonymity of the Confessional is compromised, these opportunities contained in the practice of Confession in the Catholic tradition will almost certainly be greatly diminished. It is not too much to say, therefore, that to make priests mandatory reporters of knowledge they gain in the Confessional may in some circumstances make children and young people less rather than more safe.

At the time of their ordination priests make a solemn and binding commitment to God and to God's people. That commitment is to give their lives in service to God's people with generosity, integrity and fidelity. The sexual abuse of the young by some clergy is a shocking and devastating betrayal of that commitment and must be condemned. We in the Church must continue to do absolutely everything open to us to ensure that the scourge of sexual abuse is eliminated from our communities. This has been and continues to be a fundamental commitment of mine as the Archbishop of Perth. The Catholic Archdiocese of Perth intends to work in harmony with the Western Australian Government to improve the safety and wellbeing of all young people. It is my firm belief that making priests mandatory reporters of information revealed to them in the Confessional will not achieve this shared objective.

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