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Grace Tame demands law reform after Diocese of Ballarat cleared of vicarious liability

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Sexual Offences

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A man known as DP is urging all states and the NT to join the ACT by changing their vicarious liability laws. *(Supplied: DP)*

In short:

Grace Tame and a man known as DP are launching a campaign for consistent state and territory-based legislative reform.

It has been triggered by a High Court judgment that found the Diocese of Ballarat was not vicariously liable for abuse perpetrated by one of its priests.

What's next?

They want every state and territory to change their vicarious liability laws and make them retrospective.

A national campaign is being launched to close a legislative loophole that lawyers say is being "weaponised" to block victim-survivors of child sexual abuse from pursuing justice in court.

Former [Australian of the Year Grace Tame](#) has joined forces with a man whose [legal action against the Catholic Diocese of Ballarat was appealed in the High Court in November 2024](#).

The man, known by the pseudonym DP, took the diocese to the Supreme Court of Victoria in 2020 claiming psychological injuries for assaults committed by paedophile priest Father Bryan Coffey.

He was five years old when he was sexually abused by Coffey in his parents' home at Port Fairy in 1971.

The [Supreme Court found the diocese was vicariously liable](#) for the actions of Coffey, who died in 2013, and awarded DP \$200,000 in damages for pain and suffering.

The Court of Appeal then dismissed the diocese's challenge.

But the diocese appealed to the High Court, which set aside the previous judgments and found that the Diocese of Ballarat was not vicariously liable for Coffey's offences.

"The case was draining," DP said in a statement.



DP initially launched legal action against the Diocese of Ballarat in 2020. (Supplied: DP)

"I have been frustrated at the overall legal process and devastated at the outcome.

"The Catholic Church threw everything at me to make me break and walk away. I didn't. The law is not right."

Under Australian law, an institution or organisation can be held vicariously liable for a person's actions if they are an employee and the act is perpetrated at work or in the course of their employment.



Grace Tame is spearheading a campaign to give victim-survivors of child sexual abuse a greater chance to seek justice. (ABC News: Marcus Stimson)

"[The High Court decision] sends a message to survivors that there is no point coming forward because the Church has no responsibility for its priests," DP said.

In a statement, Diocese of Ballarat Bishop Paul Bird said he appealed to the High Court because he considered the Supreme Court's judgment to be "wrong".

"Our church community continues to have responsibility for our priests and we accept that we are legally liable when we have been negligent in fulfilling our responsibilities," Bishop Bird said.

Call to action

DP has now teamed up with Grace Tame to launch the Speak Up For Change campaign, demanding state and territory governments overhaul their vicarious liability legislation to ensure it applies to people who are "akin to employees", such as priests and volunteers.

They also want the reforms to be retrospective, so victim-survivors of historical child sexual abuse can pursue legal action.



DP was sexually abused by Father Bryan Coffey at Port Fairy in Victoria, which is part of the Diocese of Ballarat. (ABC Ballarat: Dominic Cansdale)

"Institutions broadly have a reputation for avoiding accountability at all costs and prioritising their own financial interests over the healing of victim-survivors," Ms Tame said.

She has accused the Catholic diocese of being hypocritical in DP's case, because the church claimed JobKeeper payments that helped businesses pay their employees during the COVID-19 pandemic.

"It really highlights the hypocrisy, but also the willingness of these institutions to exploit legal loopholes to use whatever legal definition is convenient to protect their financial interests ' Ms Tame said.

Bishop Bird denied the church was prioritising its financial interests, and said the High Court "reaffirmed an understanding of vicarious liability that had guided decisions in Australia for many years".

"Far from putting our financial interests over the healing of victim-survivors, our diocese has placed all our financial reserves at the service of the healing of victim-survivors," he said.

Bishop Bird said the church claimed JobKeeper during the pandemic because church services were suspended and "priests did not receive the usual support from weekly contributions from parishioners".

"Government assistance was not limited to employees," he said.

DP's lawyer, Sangeeta Sharmin, said while the High Court's decision correctly applied the law, it did not align with "community standards".

"The ultimate message received is that, 'yes, you were abused, yes, it was with respect to a convicted paedophile, but there is no legal remedy for you,'" Ms

Sharmin said.

"For all intents and purposes, religious personnel are employees; they are paid a wage, they are employees for the purposes of work, health and safety legislation, they're employees for the purposes of workers compensation legislation, they received JobKeeper."

'Cruel' precedent

The High Court's judgment has not only affected DP's attempt to seek justice.

It has thwarted other cases, including one being pursued by another of Coffey's victim-survivors.

Deb (not her real name) was abused by the priest when she was 11 years old.

"It was a living nightmare. I still can't sleep without something securing my door," she said.

Three of her siblings were also abused by Coffey and only two are still alive.

Deb has spent more than a decade fighting for her day in court, and that ended when the diocese won its High Court appeal.

"That was just cruel to me, I sat in the boardroom at Ballarat with Bishop Bird and he said, 'our cause is compassion and charity', and I went 'no, it's not,'" she said.

"You can't say that, when you just did that to thousands of people.



Sangeeta Sharmin says current legislation does not reflect "community standards". (Supplied: Sangeeta Sharmin)



"To just shatter them and have no care was beyond recognition."

Bishop Paul Bird has described proposed changes to Victoria's vicarious liability legislation as being "unfair" on the diocesan community. (*ABC News*)

Bishop Bird said the diocesan community continued to "show care" through compensation payments if there was evidence of negligence in fulfilling its responsibilities, as well as funding for counselling and other pastoral support.

Legal technicality 'weaponised'

The [Royal Commission into Institutional Responses to Child Sexual Abuse delivered its final report in 2017.](#)

One of its recommendations was for state and territory governments to "introduce legislation to make institutions liable for institutional child sexual abuse by persons associated with the institution unless the institution proves it took reasonable steps to prevent the abuse".

It said this "should include religious leaders, officers and personnel of the religious organisation".

Some states and territories have amended their vicarious liability legislation to include people who are "akin to employees" but changes have been prospective, not retrospective, as recommended by the royal commission.

This means the reforms do not apply to victim-survivors of historical child sexual abuse.



Michael Bradley says current vicarious liability laws have been "weaponised". *(Supplied: Michael Bradley)*

Lawyer and Grace Tame Foundation board member Michael Bradley said the situation was "disappointing".

"Another legal technicality has sort of been weaponised by an institution which is morally culpable for the acts of its own priests," Mr Bradley said.

The High Court concluded "the issue is squarely in the hands of the legislatures", meaning Australia's state and territory governments must consider any further legislative amendments.

In October, [the ACT became the first jurisdiction to pass legislation expanding vicarious liability](#).

The Western Australian government introduced legislation in November.

A bill to reform Victoria's law passed its parliament's lower house in December and will go to its upper house in February next year.

Judy Courtin, lawyer and advocate for survivors of sexual and institutional abuse, said the High Court judgment also impacted "anyone who was sexually assaulted or raped as a child by someone we call a volunteer".

"So sporting organisations, the boy scouts, lots and lots of organisations where the offender was a volunteer," she said.



The High Court ruled that the Diocese of Ballarat was not vicariously liable for the abuse perpetrated by one of its priests. (ABC News: Matt Roberts)

Dr Courtin said the decision affected about a third of her practice's clients.

"Victoria [has] tabled a bill ... it's a good bill thus far," she said.

"The Western Australian bill I'm very, very unhappy with. It basically carves out or excludes any offender except for what they call religious practitioners.

"It creates two classes of victim-survivors."

Potential reforms have been discussed at two meetings of the Standing Committee of Attorneys-General (SCAG), a meeting of Australia's state and federal attorneys-general.

But Dr Courtin said reforms were not happening fast enough.

"The rest of the states should be ashamed of themselves. It is appalling that the rest of the states are just dragging their heels," she said.

In a statement, WA's Department of Justice said its bill was a "first step" and was "part of a plan to implement several outstanding recommendations of the royal commission".

The New South Wales, Queensland, South Australian, Northern Territory and Tasmanian governments said they would continue to consider potential reforms.

In a statement, ACT's Attorney-General Tara Cheyne described the High Court's decision as "chilling in a policy, political and justice sense" and said while a nationally consistent approach was "highly preferable", so was "providing legislative certainty as soon as possible".

Bishop Bird wrote to Victoria's attorney-general in January 2025 expressing concern about changes to vicarious liability legislation, such as making it retrospective.

He said he did not support the reforms recently passed in the ACT.

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- [Kids Helpline](#) on 1800 551 800
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