**Royal Commission**
into Institutional Responses
to Child Sexual Abuse

# REPORT OF CASE STUDY NO. 6

## The response of a primary school and the Toowoomba Catholic Education Office to the conduct of Gerard Byrnes

JANUARY 2015

ISBN 978-1-925289-04-6



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# Report of Case Study No. 6

The response of a primary school and the Toowoomba Catholic Education Office to the conduct of Gerard Byrnes

January 2015

## COMMISSIONERS

Justice Jennifer Coate
Commissioner Bob Atkinson AO APM
Mr Andrew Murray

# Contents

# Preface

## The Royal Commission

The Letters Patent provided to the Royal Commission require that it 'inquire into institutional responses to allegations and incidents of child sexual abuse and related matters.'

In carrying out this task the Royal Commission is directed to focus its inquiries and recommendations on systemic issues but also recognise that its work will be informed by an understanding of individual cases. The Royal Commission must make findings and recommendations to better protect children against sexual abuse and alleviate the impact of abuse on children when it occurs.

A copy of the Letters Patent are at Appendix A to this report.

### Public hearings

A Royal Commission commonly does its work through public hearings. A public hearing follows intensive investigation, research and preparation by Royal Commission staff and Counsel assisting the Royal Commission. Although it may only occupy a limited number of days of hearing time, the preparatory work required by Royal Commission staff and by parties with an interest in the public hearing can be very significant.

The Royal Commission is aware that sexual abuse of children has occurred in many institutions, all of which could be investigated in a public hearing. However, if the Royal Commission was to attempt that task a great many resources would need to be applied over an indeterminate, but lengthy, period of time. For this reason the Commissioners have accepted criteria by which Senior Counsel Assisting will identify appropriate matters for a public hearing and bring them forward as individual 'case studies'.

The decision to conduct a case study will be informed by whether or not the hearing will advance an understanding of systemic issues and provide an opportunity to learn from previous mistakes so that any findings and recommendations for future change which the Royal Commission makes will have a secure foundation. In some cases the relevance of the lessons to be learned will be confined to the institution the subject of the hearing. In other cases they will have relevance to many similar institutions in different parts of Australia.

Public hearings will also be held to assist in understanding the extent of abuse that may have occurred in particular institutions or types of institutions. This will enable the Royal Commission to understand the way in which various institutions were managed and how they responded to allegations of child sexual abuse. Where our investigations identify a significant concentration of abuse in one institution it is likely that the matter will be brought forward to a public hearing.

Public hearings will also be held to tell the story of some individuals which will assist in a public understanding of the nature of sexual abuse, the circumstances in which it may occur and, most importantly, the devastating impact which it can have on some people's lives.

A detailed explanation of the rules and conduct of public hearings is available in the Practice Notes published on the Royal Commission's website at www.childabuseroyalcommission.gov.au. Public hearings are streamed live over the internet.

In reaching findings, the Royal Commission will apply the civil standard of proof which requires its 'reasonable satisfaction' as to the particular fact in question in accordance with the principles discussed by Dixon J in *Briginshaw v Briginshaw* (1938) 60 CLR 336:

> it is enough that the affirmative of an allegation is made out to the reasonable satisfaction of the tribunal. But reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent likelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal...the nature of the issue necessarily affects the process by which reasonable satisfaction is attained.

In other words, the more serious the allegation, the higher the degree of probability that is required before the Royal Commission can be reasonably satisfied as to the truth of that allegation.

## Private sessions

When the Royal Commission was appointed it was apparent to the Australian Government that many people (possibly thousands of people) would wish to tell the Royal Commission of their personal history of sexual abuse in an institutional setting when they were a child. As a consequence the Commonwealth Parliament amended the *Royal Commissions Act 1902* to create a process called a 'private session'.

A private session is conducted by one or two Commissioners and is an opportunity for a person to tell their story of abuse in a protected and supportive environment. As at 30 November 2014, the Royal Commission has held 2,724 private sessions and more than 1,000 people were waiting for one. Many accounts given in a private session will, in a de-identified form, be reported in later reports of the Royal Commission.

## Research program

In addition to public hearings and private sessions the Royal Commission has an extensive research program. Apart from information gained in public hearings and private sessions the research program will draw upon research undertaken by consultants to the Royal Commission together with the original work of its own staff. Significant issues will be considered in issues papers and discussed at roundtables.

## This case study

The scope and purpose of this case study is as follows:

- The response by the principal and other members of staff of a Catholic primary school in Toowoomba, Queensland, to allegations of child sexual abuse made against a teacher at the primary school, in September 2007
- The response by officers of the Catholic Education Office, Diocese of Toowoomba, to information supplied by the primary school principal regarding the allegations of child sexual abuse received in September 2007
- The adequacy and implementation of systems, policies and procedures of the Catholic Education Office, Diocese of Toowoomba, and the primary school for the prevention, detection, investigation and reporting of allegations of child sexual abuse since 2007
- Any related matters.

This case study examines how and why an institution, which employed trained and experienced staff, which also had a raft of procedures in place (approved by the relevant government agency), and which operated within a legal environment that mandated reporting to the police, employed and re-employed a teacher against whom credible and serious allegations of child sexual abuse had been made, without taking any action against him.

# Executive summary

## Gerard Byrnes

On 4 October 2010, Gerard Vincent Byrnes was sentenced to 10 years' imprisonment, including a non-parole period of eight years, after he pleaded guilty to 44 child sexual abuse offences against 13 girls who were then aged between eight and 10 years. Mr Byrnes was a teacher and the girls he offended against were all students in his classes. The primary school at which the offences occurred cannot be named in this report because section 10 of the *Criminal Law (Sexual Offences) Act 1987* (Qld) prevents its publication.

Many of the offences committed by Mr Byrnes involved touching and fondling of various parts of the girls' bodies, both on the outside of and underneath their school clothing. Ten of the offences were particularly serious and involved digital vaginal and anal rape. With the exception of two counts of indecent treatment that involved Mr Byrnes licking girls' vaginas, all of the offences – including the digital rape offences – were committed during class time while the girls were either standing beside Mr Byrnes's desk near the blackboard or sitting on Mr Byrnes's lap behind his desk.

The school was a non-State school, and was one of 32 primary and secondary schools administered by the Catholic Education Office, Diocese of Toowoomba (TCEO).

In 2007, Mr Byrnes was one of two staff members at the school who had been appointed as student protection contacts by the principal, Mr Terence Hayes. Mr Hayes was principal at the time of Mr Byrnes's offending. Student protection contacts had responsibility for assisting the principal to ensure that suspicions or disclosures of harm, including sexual abuse, were reported to police in accordance with the school's applicable policies and procedures for student protection (set out in the school's Student Protection and Risk Management Kit (student protection kit). The other person appointed as a student protection contact was Learning Support Teacher, Ms Catherine Long.[1]

## The first allegation

On 3 September 2007, KQ, the father of a student in Mr Byrnes's Year 4 class, telephoned Mr Hayes and said that his daughter, KH, had said that Mr Byrnes had put his hand inside her school shirt[2] and that he had touched her and made her feel uncomfortable.[3] KQ and Mr Hayes arranged to meet at the school to discuss the matter.[4]

According to Mr Hayes, by the time his telephone conversation had finished, he had formed the opinion that he was dealing with serious allegations of sexual abuse against a child.[5]

Prior to the telephone call from KQ, Mr Hayes was aware that it was his responsibility under the student protection kit to make a written report of a reasonable suspicion of sexual abuse.[6] Mr Hayes made a handwritten note of what was said by KQ.[7] He then telephoned the TCEO in an attempt to speak with the designated Senior Education Officer (SEO) for the school. There is a dispute as to what was said.

Mr Hayes did not report the allegations made by KQ to the police.

On 5 September 2007, Mr Hayes met with Mr Byrnes and 'outlined the nature of the allegations' conveyed by KQ during the telephone conversation on 3 September 2007. Mr Hayes told Mr Byrnes that he regarded the allegations as serious.[8]

On 6 September 2007, Mr Hayes and Ms Long met with KH and KQ in the administration building at the school.[9] After describing Mr Byrnes's conduct towards her, KH was asked to 'demonstrate' Mr Byrnes's conduct by pretending that her father, KQ, was Mr Byrnes and showing with her father's hands where Mr Byrnes had touched her.

KQ's 'impression from the meeting with Terry and Cathey (Ms Long) was that they were encouraging me to keep it more informal, as it appeared that it would be easier for them to handle the matter internally within the school because there would be less hassle, paperwork and investigation involved'.[10]

- **Finding 1:** The information disclosed to Mr Hayes in his telephone conversation with KQ on 3 September 2007 that Mr Byrnes had put his hand inside KH's shirt and touched KH in a way that made her feel uncomfortable was sufficient to give rise to a reasonable suspicion that KH had been sexually abused by Mr Byrnes and thereby fitted the definition of 'sexual abuse' as defined in part 1.6 of section 1 of the school's applicable student protection kit.

- **Finding 2:** The information disclosed to Mr Hayes and Ms Long during their meeting with KQ and KH on 6 September 2007 that Mr Byrnes 'put his hands up our skirts' was sufficient to give rise to a reasonable suspicion that Mr Byrnes had sexually abused KH and thereby fitted the definition of 'sexual abuse' as defined in part 1.6 of section 1 of the school's applicable student protection kit.

- **Finding 3:** Mr Hayes did not comply with the procedures in the school's applicable student protection kit in that he did not report the allegations of sexual abuse KQ made during the telephone conversation on 3 September 2007 and the meeting on 6 September 2007 to the police.

  Mr Hayes, as school principal, sought to avoid responsibility for reporting to the police these allegations of sexual abuse by maintaining that the responsibility to do so was that of the TCEO.

- **Finding 4:** The role of the TCEO with respect to handling allegations of child sexual abuse was to train, assist and guide teachers and principals, not to override the directions in the student protection kit. Mr Hayes's failure to comply with directions in the student protection kit could not be excused by any verbal direction given by the TCEO.

- **Finding 5:** There was no proper basis for asking KH to use her father to demonstrate the alleged abuse by Mr Byrnes at the meeting on 6 September 2007. Neither Mr Hayes nor Ms Long should have allowed the demonstration to occur or have then relied on it as a basis for decision making.

Mr Hayes spoke to Mr Fry and Mr Hunter of the TCEO but did not inform them that KH had alleged that Mr Byrnes had 'put his hand up our skirts'.[11] He did not inform Mr Fry and Mr Hunter that he suspected that Mr Byrnes had sexually abused KH[12] and provided the following explanation for not doing so:[13]

> Not because of any conscious decision. Hindsight is a wonderful thing. I was more focused on ensuring that I worked with my employer and my system to ensure that we handled – not 'we handled' – that correct procedures were followed.

Mr Fry and Mr Hunter advised Mr Hayes to send a disciplinary letter to Mr Byrnes. [14]

## The second allegation

At about the same time that Mr Hayes was speaking with Mr Fry and Mr Hunter about KH's disclosure, back at the school, Megan Wagstaff received a telephone call from the mother of another girl in Mr Byrnes's class at the school.[15] Ms Wagstaff was the Assistant Principal Religious Education (APRE). She acted in the position of deputy principal while Mr Hayes was away for short periods of time.

The mother to whom Ms Wagstaff spoke informed her that on the previous day her daughter had overheard a conversation between KA and KH at after-school care in which KA had said that Mr Byrnes had put his hands down her pants.[16]

Ms Wagstaff did not construe the information she had received as a report or an allegation of sexual abuse.[17] Nor did Ms Wagstaff suspect sexual abuse[18] or believe that she was dealing with sexual abuse.[19]

Immediately after the call, Ms Wagstaff spoke with Ms Long and told her some or all of the discussion with the mother.

After receiving the information from Ms Wagstaff on 7 September 2007, Ms Long's opinion in relation to the allegations against Mr Byrnes changed. By this time, Ms Long was of the opinion that 'clearly [Mr Byrnes] had to be investigated, so something inappropriate – something was not right'.[20] Despite her change of mind, Ms Long did not document her concerns or take any other action 'because I wasn't the first person to receive that complaint'.[21]

Ms Wagstaff did not complete and submit the form in the student protection kit for recording allegations. She did, however,make a written note of the information she received on 7 September 2007, which contained the substance of what was required by the form. She advised Ms Long, Mr Fry and Mr Hayes of the information she had received and provided her notes to Mr Hayes.

At the time that Mr Hayes and Ms Long were provided with this information by Ms Wagstaff, both were aware that the girl referred to in this complaint was the same girl that KH had reported on 6 September 2007. Ms Wagstaff did not have this same knowledge.

- **Finding 6:** Mr Hayes did not inform either Mr Fry or Mr Hunter of KH's most serious disclosure that Mr Byrnes had 'put his hand up our skirts'. Mr Hayes could have, but did not, communicate the disclosure to Mr Fry during the telephone conversation of 7 September 2007, in the draft disciplinary letter of 10 September 2007 and/or in the revised draft disciplinary letter of 11 September 2007. Mr Hayes gave no plausible explanation for this gross incompetence on his part. The failure to communicate this most serious disclosure to those from whom he sought professional advice and guidance contributed to that advice being compromised.

- **Finding 7**: Each of Mr Fry and Mr Hunter should have ensured that the allegations contained in the draft disciplinary letter were reported to the police.

- **Finding 8:** Upon receiving allegations of child sexual abuse against Mr Byrnes in September 2007, the steps taken by Mr Hayes to monitor Mr Byrnes's conduct were inadequate and inappropriate to manage the risks posed by Mr Byrnes to children at the school.

- **Finding 9:** Mr Hayes should not have allowed Mr Byrnes to continue in the position of student protection contact following receipt of the allegations against him in September 2007.

- **Finding 10:** The safety of children at the school was put at risk because Mr Hayes:
  - did not comply with reporting procedures set out in the school's applicable student protection kit
  - did not report the allegations to the police
  - did not inform Mr Fry and Mr Hunter of the most serious allegation made against Mr Byrnes.

- **Finding 11:** Mr Hayes and Mr Fry minimised the seriousness of the allegations they received by leaving out the 'hands down the pants' allegation from the disciplinary letter to Mr Byrnes and taking no other action.

Mr Byrnes retired from his position[22] effective 27 June 2008.[23] From 30 July 2008, Mr Byrnes was re-engaged as a relief or supply teacher at the school, following approval by Ms Hendriks, the Assistant Director of the TCEO.[24]

- **Finding 12:** Mr Hayes sought and enabled the re-appointment of Mr Byrnes as a relief teacher knowing of the allegations of child sexual abuse against Mr Byrnes.

- **Finding 13:** Neither Mr Fry nor Mr Hunter reported the allegations of sexual abuse against Mr Byrnes to their supervisor, Ms Hendriks, the Assistant Director of the TCEO, or the director of the TCEO, Mr Borserio. This contributed to Mr Byrnes being permitted to be appointed a relief teacher in July 2008 because Ms Hendriks, who agreed to his appointment, was not aware of the disclosures concerning KH and KA.

Mr Byrnes was arrested in November 2008.

## Response of the Diocese

The Diocese responded by establishing a Child Abuse Response Team (CART) 'to develop a pastoral and professional response' to Mr Byrnes's offending as well as allegations that there had been a failure to comply with mandatory reporting requirements.[25]

Bishop Morris also retained a law firm, Thynne & Macartney, to conduct an investigation into what had occurred and the circumstances in which information regarding sexual abuse had not been reported. Bishop Morris also wanted to know why the school's student protection policies and procedures had not been complied with.[26]

Among other matters, Thynne & Macartney recommended that notices be issued to each of Mr Hayes, Mr Fry and Mr Hunter to show cause as to why they should not be disciplined for their respective failures in not properly assessing and reporting the allegations of child sexual abuse received in September 2007.[27]

On 10 December 2009, Bishop Morris terminated the employment of Mr Hayes, Mr Fry and Hunter.[28]

In the years following the arrest of Mr Brynes, the Diocese of Toowoomba also implemented changes to child protection policies and practices.

On 16 November 2009, Mr Hayes was tried on a single charge of failing to comply with a mandatory reporting obligation under section 366(4) of the *Education (General Provisions) Act 2006*. Mr Hayes successfully defended the charge on the basis that he had reported to the TCEO in accordance with section 366(2) of the *Education (General Provisions) Act 2006* and that the obligation to report the information to police lay with a person in the school's governing body, not himself. [29]

When giving evidence at his trial, Mr Hayes agreed that the disclosures by KH would give rise to reasonable suspicion that sexual abuse had occurred by Mr Byrnes.[30] During his evidence, Mr Hayes agreed that at the time of the meeting with KH and KQ, he suspected that sexual abuse had occurred.[31]

- **Finding 14:** That on being advised of Mr Byrnes's offending and the response of the school and TCEO to the September 2007 allegations of child sexual abuse, Bishop Morris responded appropriately by:
    - commissioning an independent investigation into what occurred and seeking advice and recommendations as to any actions that needed to be taken to better protect children
    - appointing an independent mediator to assess and give advice as to reparation to victims and their families
    - establishing a Child Abuse Response Team to develop and oversee both the pastoral and professional response and to give advice to the Diocese about improvements to child protection.

## The role of the Non-State Schools Accreditation Board

The school was a 'non-State school' within the meaning of section 6 of the *Education (Accreditation of Non-State Schools) Act 2001* (Qld) (the Accreditation Act). To operate lawfully,[32] it was required to be accredited by the Non-State Schools Accreditation Board (NSSAB). [33]

The NSSAB developed a checklist to assist staff in assessing compliance against the accreditation criteria.[34]

Bishop Morris was of the opinion that the NSSAB's approval of the student protection kit in 2006 indicated not only that the Diocese's written processes complied with all relevant legislative requirements, but also that the NSSAB was satisfied that the policies and procedures were being properly implemented.[35]

The Director of the TCEO, Mr Borserio, was of a similar opinion as Bishop Morris. He stated '… in the renewal of our kit, I felt as though, when it was accredited by the NSSAB, that they had provided key – they had scrutinised it with an expert eye'. [36]

- **Finding 15:** The Non-State Schools Accreditation Board does not apply any articulated standards or benchmarks to assess the adequacy of training programs or other initiatives for the implementation of written processes for child protection.[37]

# 1 Introduction

On 4 October 2010, Gerard Vincent Byrnes was sentenced to 10 years imprisonment including a non-parole period of eight years, after he pleaded guilty to 44 child sexual abuse offences against 13 girls who were then aged between eight and 10 years. Mr Byrnes was a teacher and the girls he offended against were all students in his classes. The primary school at which the offences occurred cannot be named in this report because section 10 of the *Criminal Law (Sexual Offences) Act 1987* (Qld) prevents its publication.

Many of the offences committed by Mr Byrnes involved touching and fondling of various parts of the girls' bodies, both on the outside and underneath their school clothing. Ten of the offences were particularly serious and involved digital vaginal and anal rape. With the exception of two counts of indecent treatment that involved Mr Byrnes licking girls' vaginas, all of the offences – including the digital rape offences – were committed during class time while the girl was either standing beside Mr Byrnes's desk near the blackboard or while sitting on Mr Byrnes's lap behind his desk.

The school was a non-State school and was one of 32 primary and secondary schools administered by the Catholic Education Office, Diocese of Toowoomba (TCEO). At the time that the offences were committed and for the three years that followed, the Bishop for the Diocese of Toowoomba and sole director of The Corporation of the Roman Catholic Diocese of Toowoomba was the Most Reverend William Morris DD.

Mr Byrnes began teaching at the school in 2001.[38] Prior to that, he had been a teacher or principal in a number of Catholic schools in NSW and Queensland for 31 years. Mr Byrnes began teaching in 1970.[39] Mr Byrnes was between 58 and 59 years of age when the offences were committed.

In 2007, Mr Byrnes was one of two staff of the school who had been appointed as student protection contacts by the Principal, Mr Terence Hayes. Mr Hayes was principal at the time of Mr Byrnes's offending. Student protection contacts had responsibility for assisting the principal to ensure that suspicions or disclosures of harm, including sexual abuse, were reported to police in accordance with the school's applicable policies and procedures for student protection. The other student protection contact was Learning Support Teacher, Ms Catherine Long.[40]

The Director of the TCEO was Mr John Borserio. The Assistant Director (Staff and School Development) was Ms Margaret Hendriks. In 2007, Ms Hendriks supervised three Senior Education Officers (SEOs): Mr Christopher Fry, Mr Ian Hunter and Mr Peter Lynam. Through the SEOs, Ms Hendriks had responsibility for student protection and the supervision of school principals.[41]

# 2 Response to KH's Disclosure

## 2.1 Telephone call from KQ to Mr Hayes on 3 September 2007

On 3 September 2007, KQ, the father of a student in Mr Byrnes's Year 4 class, telephoned Mr Hayes. He told Mr Hayes that his daughter, KH, had said that Mr Byrnes had put his hand inside her school shirt[42] and that he had touched her and made her feel uncomfortable.[43] KQ and Mr Hayes arranged to meet at the school to discuss the matter.[44]

As at September 2007, section 366 of the *Education (General Provisions) Act 2006* (2006 Act) imposed an obligation on a staff member of a non-State school to make a written report, if he or she became aware or reasonably suspected, that a student under 18 years of age and attending the school, had been sexually abused by a school employee.[45]

The 2006 Act required a copy of any such report to be given to a police officer. Section 68 of the *Education (General Provisions) Regulation 2006* set out what information needed to be included in a written report, such as the student's name and sex,[46] details of the abuse or suspected abuse,[47]and the identity of the employee who is the subject of the report.[48]

As at September 2007, the TCEO and the school had policies and procedures for giving effect to the mandatory reporting obligations in the *Education (General Provisions) Act 2006* (Qld).

These policies and procedures were set out in a Student Protection and Risk Management Kit (student protection kit) that had been adapted from a manual published by the Queensland Catholic Education Commission (QCEC). Sections 1, 2 and 3 of the student protection kit, together with a mandatory reporting proforma (Form A), were in force as at September 2007.[49]

As at September 2007, Part 1 of section 2 of the student protection kit related to 'Registering the allegation or concern'. It set out the following obligations:

> Procedures:
>
> (See p 7 Flow chart: Notification Procedures)
>
> 1 A Staff Member:
>
> A staff member should take action as shown below in circumstances:
>
> - where they are aware that harm has been caused to a student and/or
> - where they reasonably suspect harm to have been caused to a student and/or
> - where another staff member is accused or suspected of inappropriate behaviour.
>
> 1.1 The staff member should document the allegation as soon as possible on hearing the allegation or developing the concern. In the circumstances of 1.2 this

documentation is required in law. (Mandatory Reporting Form – "Form A" which appears in the "Forms" Section of this Manual.) In all other situations the school process will be followed using "Form B" which can be located in the "Forms" Section of this Manual). In making a record the member of staff should observe the following:

- Record factual information as soon as possible.
- Use the forms the Catholic School Authority supplies for the purpose where possible.
- Write exactly what was observed or heard.
- Note the date and time.
- Sign all records.

When making the record the staff member should take care to make sure they do not

- Express an opinion about what was observed or heard.
- Interpret what was observed or heard.
- Use emotive terms.

1.2 When there is knowledge or reasonable suspicion of sexual abuse of a student by an employee, the staff member who becomes aware of all reasonably suspects the abuse must report the matter in writing on the appropriate form immediately to the Principal or a director of the school's governing body as described by the School Authority in Section 1.8 of this Manual. ("Form A" is provided in the "Forms" section of this Manual.)

A must be handed to the Principal, or a Director of the governing body who must act immediately to report to the police as in 2.1 Part 2 of this Section 2 and provide them with a copy of the written report.

The staff member must give a copy of their written report to the Principal and may keep a copy in a confidential file.

The student protection kit defined 'harm' to a student to include 'sexual abuse', which was in turn defined as 'showing pornographic images to a child, sexual touching and invasive sexual acts. It includes exposure, fondling, voyeurism and exhibitionism, as well as sexual intercourse, incest, involvement with pornography and child prostitution'.[50]

In addition, the section of the student protection kit entitled 'Initial Assessment of How to Proceed' specifically stated 'If there is doubt, the decision must be in favour of acting on the allegation'.[51] It also contained the following notice:

Nothing that is written below should prevent the Principal or other member of staff taking immediate action to notify the police or Department of Child Safety if they believe it is essential to act without even minimal delay. The person concerned then takes up the official procedures to ensure that all aspects of care and responsibility are addressed. If a staff member has notified a concern according to these procedures but is unable to feel sure that the School Authorities are taking appropriate action, they should notify the Police or Department of Child Safety or else contact the Catholic School Authority directly. Nothing that is written below should prevent a teacher or

> other member of staff from contacting the Student Protection Officer for the Catholic School Authority if they consider it to be necessary at any time.

According to Mr Hayes, by the time his telephone conversation with KQ on 3 September 2007 had finished, he had formed the opinion that he was dealing with serious allegations of sexual abuse against a child.[52]

Prior to the telephone call from KQ, Mr Hayes was aware that it was his responsibility as a staff member to make a written report of a reasonable suspicion of sexual abuse.[53] Mr Hayes made a handwritten note of what was said by KQ.[54] Mr Hayes did not complete a mandatory reporting Form A or report the allegations to the police.[55]

## 2.2 Conversation between Mr Hayes and Ms Long on 3 September 2007

After his telephone conversation with KQ on 3 September 2007, Mr Hayes spoke with Ms Catherine Long.[56] Ms Long was a Learning Support Teacher and one of two student protection contacts at the school; the other was Mr Byrnes. Ms Long said:[57]

> Well Gerry needs to stop giving out lollies to children particularly the Year 7 girls before and after school and having girls hanging off him in the playground when he is on yard duty. He has even put a chocolate bar in the desk of a Year 7 girl.

At the time of this conversation with Ms Long, Mr Hayes was familiar with the concept of grooming.[58] He recognised the behaviours described by Ms Long as being consistent with grooming.[59]

At the hearing, Ms Long initially denied that she was familiar with the concept of grooming.[60] She subsequently acknowledged that she had participated in a discussion about children being groomed. It is likely that this discussion took place at an in-service training course while Ms Long was a student protection contact.[61] Ms Long further acknowledged that in 2007 she 'thought grooming was when somebody tried to get your confidence by giving you a gift, like your lollies, whatever, talking to you, being nice towards you, being pastoral towards you and I guess you end up trusting them'.[62]

Ms Long agreed that she had not received any specific training about the kinds of 'inappropriate behaviour' that were the subject of her remarks about Mr Byrnes to Mr Hayes after the initial call from KQ on 3 September 2007.[63]

Following the telephone conversation with KQ on 3 September 2007, Mr Hayes also spoke with the school's Assistant Principal, Ms Judy Smith. Ms Smith told Mr Hayes that another staff member had recently told her that she had noticed a girl sitting on Mr Byrnes's knee.[64]

At the hearing, Mr Hayes agreed that the information provided by Ms Long and Ms Smith tended to corroborate the serious allegations of sexual abuse made against Mr Byrnes by KQ.[65]

By not reporting the allegation of sexual abuse KQ made during the telephone conversation on 3 September 2007 to the police,[66] Mr Hayes did not comply with the procedures provided for in the student protection kit which governed the school at that time. Mr Hayes's explanation was that he had been told at principals' meetings that the '[TCEO] is the first port of call'.[67] This explanation is discussed further below.

## 2.3 Telephone call from Mr Hayes to TCEO on 4 September 2007

On 4 September 2007, Mr Hayes telephoned the TCEO in an attempt to speak with the designated Senior Education Officer (SEO) for the school, Mr Christopher Fry.[68] Mr Fry had been an SEO for 10 years and, for the preceding 22 years, he had been a teacher (including a deputy principal and principal) at various Catholic schools.[69]

The obligations of a SEO included the provision of advice and support to principals, student protection contacts and other school staff regarding student protection, including issues arising from the student protection kit.[70]

According to Mr Hayes, when he called the TCEO and Mr Fry was unavailable, he spoke with SEO Mr Peter Lynam instead.[71] According to Mr Hayes, Mr Lynam drew a distinction between a formal complaint which was a complaint in writing, and an informal complaint which was not in writing.[72] Mr Hayes also stated that from what Mr Lynam said, his understanding was that the obligation to reduce a complaint to writing lay with the complainant.[73]

Mr Hayes gave evidence that prior to the telephone conversation with Mr Lynam, he was aware that the student protection kit made no provision for a complainant to be responsible for reducing a complaint to writing and that this responsibility lay with the staff member who was receiving the complaint.[74] Mr Hayes agreed that he was the staff member who had received the complaint.[75]

According to Mr Hayes, even though Mr Lynam's advice conflicted with his own understanding of the student protection kit, Mr Hayes accepted Mr Lynam's advice. He did this because, as an SEO, '[h]e [Mr Lynam] was my superior'.[76]

Later, in evidence, Mr Hayes stated that he didn't know that there was nothing in the kit that differentiated between a formal complaint and an informal complaint.[77] Mr Hayes stated, 'Mr Lynam could have been telling me what was in the kit'.[78] Mr Hayes then gave evidence consistent with his earlier evidence that his obligation to act under the student protection kit was not affected by whether the complaint was written or verbal.[79]

Mr Hayes denied making up his evidence to the effect that Mr Lynam had advised that there was a difference between a formal complaint and an informal complaint.[80]

According to Mr Hayes, Mr Lynam advised that Mr Hayes should 'speak to Mr Byrnes to tell him that a parent had rung about a serious allegation and that I [Hayes] would be getting back to him after I'd spoken to the parent'.[81] Mr Hayes was aware that the student protection kit made no provision for Mr Byrnes to be informed of the allegation at that time.[82]

Mr Lynam stated that he did not recall having a telephone conversation with Hayes about KQ's disclosure.[83] Mr Lynam added '…Whilst I don't recall having that conversation, I do not assert that it couldn't have taken place'.[84]

Referring to a handwritten note of the conversation that Mr Hayes said he made at the time of the conversation,[85] Mr Lynam stated:[86]

> It is not clear to me, looking at the handwritten note now, what all the notes mean. There are aspects of the handwritten note which are consistent with the advice I would have given at the time if asked about how to deal with disciplining a teacher, even where the accusation is serious (the reference to 'serious accusations' in the note does not necessarily indicate that the matter was sexual in nature). For example, there is a reference to 'writing' and 'dot points' in the handwritten note. It was my practice to encourage complaints about teachers to be put in writing. In my view it was good practice to ensure complaints were recorded in writing for good record keeping purposes and to assist in questioning the relevant teacher about the complaint. It was not my practice to require complaints to be put in writing by the complainant before they were acted upon. Nor was it my practice to action complaints only if they were recorded in writing. If at the time I was asked to deal with a complaint of child sexual abuse, I would have said that the Child Protection Kit of the TCEO be followed and the complaint be made to the police following the process set out in the kit.

## 2.4 Meeting between Mr Hayes and Mr Byrnes on 5 September 2007

On 5 September 2007, Mr Hayes met with Mr Byrnes and 'outlined the nature of the allegations' conveyed by KQ during the telephone conversation on 3 September 2007. Mr Hayes told Mr Byrnes that he regarded the allegations as serious.[87]

## 2.5 Meeting with KH and KQ on 6 September 2007

At about 3.45 pm on 6 September 2007, Mr Hayes met with KH and KQ in the administration building at the school.[88] At Mr Hayes's request, Ms Long also attended the meeting.[89] Mr Hayes requested Ms Long 'to come to the meeting, in her role as student protection contact, to take notes but also to have a female presence in the room for the girl [KH]'.[90]

There was an initial meeting involving KQ, Mr Hayes and Mr Long while KH stayed outside the room.[91] KH was then invited into the meeting and asked to describe Mr Byrnes's conduct towards her. KQ recalled that KH said 'that Mr Byrnes had put his hand inside her shirt and touched her on the breast'.[92]

Ms Long made handwritten notes of what KH said during the meeting[93]. These notes record that KH made the following disclosures[94]:

- Mr Byrnes put his hand in my shirt twice the other day and he did it to KA.
- [Mr Byrnes] kisses KA on the cheek when she goes for help.

- [Mr Byrnes] puts his hand up our skirts and I feel uncomfortable.
- [Mr Byrnes] puts his hand around my shoulders and rubs my chest.

Mr Hayes did not make any notes of what occurred at the meeting with KH and KQ.[95] He accepted that Ms Long's notes were the best record of what was said at the meeting.[96] Mr Hayes gave evidence that he 'didn't doubt [KH] at all' in relation to the truth of her allegations against Mr Byrnes.[97]

## 2.6 Request to child to demonstrate sexual conduct

After describing Mr Byrnes's conduct towards her, KH was asked to 'demonstrate' Mr Byrnes's conduct by pretending that her father, KQ, was Mr Byrnes and showing with her father's hands where Mr Byrnes had touched her. According to Ms Long, this request was made by Mr Hayes.[98]

Mr Hayes gave evidence that it was Ms Long, not himself, who asked KH to demonstrate Mr Byrnes's conduct using her father, KQ.[99]

Mr Hayes believed that the purpose of the demonstration 'was to more authenticate what [KH] was saying'.[100] Mr Hayes later stated:[101]

> Q. Why did you think it [the demonstration] was a good idea?
>
> A. Just further – to get further clarity, further information. She may have demonstrated further behaviours. It was about being – ensuring that the child was able to show rather than just talk, if she was finding it difficult to talk – she wasn't distressed, but I just felt that it added a further depth to the meeting.'

In evidence, Mr Hayes was asked whether, when giving his approval to the demonstration, he had an expectation that KH would take her father's hand and put it up her skirt.[102] Mr Hayes said:[103]

> ' … But I just felt it would add further depth to the meeting make the child more comfortable, as well as saying and demonstrating that she was assured we were taking these matters seriously.'

Ms Long's explanation for why KH was asked perform a demonstration of Mr Byrnes's conduct on her father, KQ, was that she 'wasn't sure' whether the verbal allegation by KH that Mr Byrnes 'put his hand up our skirts and I feel uncomfortable', amounted to a child reporting some form of sexual abuse or inappropriate touching.[104]

Mr Hayes accepted that even on his version of events (that is, that Ms Long had asked KH to perform the demonstration), he was responsible for what occurred at the meeting and the way in which the meeting was conducted. He therefore took responsibility for any request made by Ms Long of KH to perform the demonstration.[105]

Neither Ms Long nor Mr Hayes made a written record of the demonstration performed by KH.[106]

Mr Hayes did not ask Ms Long to keep a record of her observations of KH's demonstration, as required by the student protection kit.[107] Mr Hayes did not consult the student protection kit before the meeting with KH and KQ.[108]

KH's verbal description of Mr Byrnes's conduct differs from what was said to be demonstrated.[109] In evidence, Ms Long stated that after the demonstration had been performed, 'what [KH] said and what she demonstrated for us probably was confusing'.[110]

Neither Mr Hayes nor Ms Long gave evidence to the effect that any discrepancy between the description and the demonstration may have been due to a reticence on the part of KH to have her father, KQ, put his hand up her skirt or into her shirt. Ms Long reasoned that if KH was prepared to demonstrate Mr Byrnes's conduct on her father, the conduct could not have been as inappropriate as if she had indicated that she was not prepared to perform any kind of demonstration.[111] Ms Long stated 'If [KH] had been reticent, that would have sent alarm bells to me'.[112]

After the demonstration, KH left the room. According to KQ, the meeting went for about 30 minutes.[113]

KQ then spoke with Mr Hayes and Ms Long.[114] KQ gave evidence that Mr Hayes informed him that there were two options for dealing with the information disclosed by his daughter. One option involved dealing with the matter informally. The 'informal option involved an internal school investigation but no formal written complaint by KH, myself or anyone else, and there would be no involvement by the police or Department of Child Safety'.[115]

The second 'formal option' involved getting the police or Department of Child Safety involved. KQ stated to Mr Hayes and Ms Long that he was 'comfortable with the option that involved dealing with the allegation informally and not being reported to the police or the Department of Child Safety'.[116] This was because he 'had the impression that [KH] hadn't been molested in the sense that Mr Byrnes has not (sic) touched her genitals' and he 'wasn't sure of the circumstances in which she had been touched'.[117] KQ also reasoned that '[a]t the time I was also concerned for Mr Byrnes as I didn't want him to be accused of being a paedophile if he wasn't one'.[118]

Mr Hayes and Ms Long both stated that Mr Hayes told KQ that he had a right to go to the police and that the TCEO would be notified.[119] KQ did not recall being told by either Mr Hayes or Ms Long that he had the option to go to the police himself.[120] Nor did KQ recall being told by either Mr Hayes or Ms Long that Mr Hayes would be consulting with anyone in the TCEO or elsewhere.[121] KQ 'thought that the school would look after things'.[122] He 'expected that they would talk to Gerry Byrnes, tell him that there had been a complaint about him touching a child and find out what happened'.[123] KQ 'expected that they would found out whether the touching had been accidental or something else'[124] and 'that they would inform me about the outcome of their investigation'.[125]

KQ's 'impression from the meeting with Terry and Cathey was also that they were encouraging me to keep it more informal, as it appeared that it would be easier for them to handle the matter internally within the school because there would be less hassle, paperwork and investigation involved'.[126]

According to Ms Long, Mr Hayes did not say to KQ words to the effect, 'I have an obligation to report this matter to the police'.[127] KQ also stated that he 'wasn't told by Terry or Cathey that they had any obligations or duties to report the complaint to the police or other authorities'.[128] According to Mr Hayes, he told KQ that his obligation was to follow student protection procedures.[129]

Immediately after the meeting, Ms Long typed up her handwritten notes and provided them to Mr Hayes later the same afternoon.[130] Two slightly different versions of Ms Long's typed notes of the meeting with KH, KQ and Mr Hayes, were adduced into evidence.[131]

Mr Hayes initially gave evidence that he understood that Ms Long's typewritten notes were a record of 'what was said at the meeting'.[132] He subsequently stated that he could not be certain whether Ms Long's notes reflected what was said or what was demonstrated by KH.[133] Later again in evidence, Mr Hayes stated, 'I accept that what Cathey has written down would be as accurately as possible what was said'.[134]

Mr Hayes accepted that Ms Long's notes contained a number of allegations of sexual abuse.[135] Mr Hayes also accepted that the most serious of the allegations of sexual abuse disclosed by KH was that Mr Byrnes had 'put his hand up our skirts'.[136]

Neither Ms Long nor Mr Hayes completed Form A – a template in the student protection kit for recording allegations of child sexual abuse – at this time.

## 2.7 Mr Hayes's and Ms Long's explanations for not reporting to the police

Ms Long explained that she understood her role at the meeting with KQ and KH to be that of 'note-taker'. She believed it was Mr Hayes's responsibility to ensure that the allegations were properly documented as he 'was in charge, not me'.[137] Ms Long stated:[138]

> '…it was the principal who filled out those forms with the knowledge you gave them, or that we filled out the forms with the principal there with us. It was never something that we should have done on our own, filled out those forms on our own and did it by ourselves'.

Ms Long had not had any previous involvement in the reception of allegations or disclosure of sexual abuse or suspected sexual abuse prior to KH's complaint on 6 September 2007.[139]

Ms Long stated that '[b]ased on the information reported to us by [KQ] and [KH] I did not believe that [KH] or any other student was being sexually abused'.[140] Ms Long's statement provided the following reasons for this opinion:

> What I had heard from and seen demonstrated by [KH] at the meeting;
>
> [KQ] presented as satisfied that it was not sexual abuse;
>
> Mr Hayes advised [KQ] that he could report the matter to the police. [KQ] did not want to do so.

> Mr Hayes advised [KQ] that he could make a written complaint to the school. [KQ] stated that he did not want to make a written complaint.

In evidence, Ms Long stated that her opinion that the disclosures made by KH at the meeting held on 6 September 2007 did not give rise to a reasonable suspicion of sexual abuse was based on KH's demonstration of Mr Byrnes's conduct, not what KH had actually said.[141]

While the student protection kit did not impose an obligation on Ms Long to make a report to the police, she accepted that there was nothing to have stopped her from doing so and that child protection is everyone's responsibility.[142] Ms Long explained that she didn't report KH's allegations to the police because she believed that Mr Hayes was dealing with the information.[143] At the same time, Ms Long was aware that Mr Hayes did not report the allegations to police.[144]

According to Mr Hayes, he was aware that the information disclosed by KH during the meeting constituted serious allegations of sexual abuse.[145] Mr Hayes knew that there was a risk of harm to KH.[146] Mr Hayes accepted that he was the staff member receiving the disclosure.[147]

Mr Hayes accepted that, as principal, he had an obligation under the student protection kit to document any allegations of child sexual abuse he received and report these to the police.[148] He accepted that he did not comply with this obligation.[149] Mr Hayes had a copy of the student protection kit in his office at the school.[150]

Mr Hayes gave evidence that, as at September 2007, he had never made a mandatory report of child sexual abuse.[151] Prior to September 2007, Mr Hayes had never sat down and read the student protection kit 'word for word'.[152] Mr Hayes's understanding of the kit and its contents came from his attendance at child protection training.[153]

Mr Hayes gave evidence that he did not comply with the kit because he had been advised by those responsible for child protection at the TCEO that in a such a situation as he faced, he should turn first to the TCEO. Mr Hayes stated that he was instructed that the '[T]CEO is our first port of call. [154] … I was complying with the direction that principals had been given'.[155] Mr Hayes stated that it was more likely than not that the direction was given by Mr Hunter at a principals' meeting at the TCEO's office on Charnley Street, Toowoomba, on 13 February 2007.[156] Mr Hayes also stated that this oral direction was given 'more than once'. [157]

Bill Ahern, who was a principal in the Toowoomba Diocese from 1999 until the end of 2011, stated that from about 2000 to about 2007, he had 'a clear recollection of being told on more than one occasion by Catholic Education representatives, directions to the effect that: the mandatory reporting law is in place, we have dealt with the mandatory reporting law in the manual, but any report is to be directly given or communicated to your next in line'.[158]

Mr Ahern gave evidence that the 'legislative understanding that I was very strongly operating on in 2006 and 2007' was that if you were the first person to receive a report of child sexual abuse, there was an option 'to report up-line or to the police'.[159] Mr Ahern later

agreed that he was not told by anyone at the TCEO that instead of having regard to his mandatory reporting obligations, he needed only to talk to the SEO.[160]

According to Mr Ahern, after Mr Byrnes's offending became public knowledge, Mr Ahern and other principals 'were told about a definite change of tactic', specifically, 'to report any complaint I got whether from a parent, student or teacher, straight to police'.[161]

Daniel McMahon, a teacher at a Catholic college at Bundaberg, and a former principal of a Catholic secondary school in the Toowoomba Diocese between January 2002 and December 2008, stated that it was his understanding that student protection issues needed to be reported to the TCEO and that 'any action that would need to be taken would then be the responsibility of the Catholic Education Office'.[162]

In evidence, Mr McMahon stated that he did not mean to suggest 'that there was ever a sense that there was a release from mandatory reporting legislation or any other legislation'.[163]

Mr McMahon stated that, as a principal in the Toowoomba Diocese, in relation to a mandatory reporting issue his 'first point of call would have been to contact the office [TCEO] for advice',[164] 'assistance'[165] or 'help'.[166]

Mr Hunter, SEO, stated that he attended and presented at principals' meetings in relation to student protection issues.[167] He gave evidence that he did not say to principals words to the effect, 'Your first port of call should be the CEO'.[168] Nor did Mr Hunter ever hear anyone else say words to this effect.[169] Mr Hunter denied that he had ever given Mr Hayes 'individually or in a group setting, any kind of instruction that he was, when faced with issues of child sexual abuse, to ring the SEO rather than to complete the processes in the manual or the kit'.[170] Nor, according to Mr Hunter, did he give Mr Hayes any direction to this effect.[171]

Mr Hunter did advise principals that 'if they ever needed any further assistance or advice or they weren't sure what to do, to contact us as advised in the manual'.[172] Mr Hunter further stated if principals 'weren't sure what to do or needed further information, we [the TCEO] could either find that information for them or we could consult outside experts that would help them to make a decision as to what they needed to do in that situation in their school'.[173]

Mr Borserio also attended principals' meetings. He did not hear Mr Hunter or anyone else give a direction to principals to the effect that they were to approach the TCEO rather than follow written directions in the student protection kit with regards to mandatory reporting.[174]

Mr Fry, SEO, stated that principals were advised at principals' meetings to contact the TCEO for advice and assistance in relation to student protection matters. Mr Fry added the following 'proviso':[175]

> I think it would also have been said at the meetings that if you have information that suggests harm by sexual abuse, suspected harm, that is a matter to be taken to the police.

Mr Hayes did not refer to the student protection kit after the meeting with KH and KQ. According to Mr Hayes's evidence, his belief, based on instructions from the TCEO, was to go to the TCEO first.

Mr Hayes accepted that he had not been instructed to 'not go to the kit'.[176] No instruction or direction was given to Mr Hayes to not comply with the student protection kit.[177] Mr Hayes had earlier stated that it was never his intention to apply the student protection kit.[178]

Mr Hayes had told his staff at in-service training that the student protection kit 'was their point of referral in any student protection matters'. Mr Hayes agreed that the student protection kit was not his point of referral '[b]ecause CEO was my first port of call, as my superiors had told me'.[179]Mr Hayes denied that the direction that he had been given to the effect that 'CEO was the first port of call' was a recent invention[180] or a lie.[181]

A 'Fact Sheet', dated February 2007, published by the TCEO and entitled 'Role of Toowoomba Catholic Education Office Student Protection Officers',[182] stated, among other things, that the role of a TCEO Student Protection Officer is to '[a]ssist with the assessment of situations where there is a child related concern and/or allegations of harm and advise of appropriate action'.

Mr Hayes accepted that no part of the description of the role of a TCEO Student Protection Officer described in the fact sheet permitted a Student Protection Officer to overrule Mr Hayes as principal in complying with his obligations.[183]

Mr Hayes stated that he did not receive, and there was no written direction to the effect, that as principal he was to go to the TCEO instead of consulting the student protection kit.[184]

Mr Hayes accepted that whatever anyone may have said to him, he was still required to comply with his reporting obligations under legislation and policy.[185]

Mr Hayes did not opt to attend an extra in-service for student protection contacts held on 20 August 2007 because he felt that he had been sufficiently well-trained in procedures for dealing with how to receive disclosures of harm and providing reports to, among others, the police.[186]

When invited by the Royal Commission to explain why he did not report to police the allegations received from KH during the meeting on 6 September 2007, Mr Hayes stated that he 'saw [himself] as part of a system' and that he 'should have been more assertive in [his] judgments'.[187]

- **Finding 1:** The information disclosed to Mr Hayes in his telephone conversation with KQ on 3 September 2007 that Mr Byrnes had put his hand inside KH's shirt and touched KH in a way that made her feel uncomfortable was sufficient to give rise to a reasonable suspicion that KH had been sexually abused by Mr Byrnes and thereby

fitted the definition of 'sexual abuse' as defined in part 1.6 of section 1 of the school's applicable student protection kit.

- **Finding 2:** The information disclosed to Mr Hayes and Ms Long during their meeting with KQ and KH on 6 September 2007 that Mr Byrnes 'put his hands up our skirts' was sufficient to give rise to a reasonable suspicion that Mr Byrnes had sexually abused KH and thereby fitted the definition of 'sexual abuse' as defined in part 1.6 of section 1 of the school's applicable student protection kit.

- **Finding 3:** Mr Hayes did not comply with the procedures in the school's applicable student protection kit in that he did not report the allegations of sexual abuse KQ made during the telephone conversation on 3 September 2007 and the meeting on 6 September 2007 to the police.

  Mr Hayes, as school principal, sought to avoid responsibility for reporting to the police these allegations of sexual abuse by maintaining that the responsibility was that of the TCEO.

- **Finding 4:** The role of the TCEO with respect to handling allegations of child sexual abuse was to train, assist and guide teachers and principals, not to override the directions in the student protection kit. Mr Hayes's failure to comply with directions in the student protection kit could not be excused by any verbal direction given by the TCEO.

- **Finding 5:** There was no proper basis for asking KH to use her father to demonstrate the alleged abuse by Mr Byrnes at the meeting on 6 September 2007. Neither Mr Hayes nor Ms Long should have allowed the demonstration to occur or have then relied on it as a basis for decision making.

# 3 The Involvement of the Catholic Education Office

## 3.1 Telephone conversation between Mr Hayes and Mr Fry on 6 September 2007

Ms Long stated that after the meeting with KQ and KH on 6 September 2007, Mr Hayes told her that he intended to contact Mr Fry. At the same time, Mr Hayes asked Ms Long to 'have an informal chat with [KA] to see if she has any concerns'.[188] Ms Long gave evidence that Mr Hayes contacted the TCEO because, after they had considered the student protection kit, she and Mr Hayes both formed an opinion to the effect, 'We really need help here'.[189] Ms Long agreed with a suggestion by her own legal representative that she felt 'out of [her] depth'.[190]

According to Mr Hayes, following the meeting with KH and KQ, he telephoned and spoke with Mr Fry.[191] He told Mr Fry that he had attended a meeting with a parent and a child and that the information that he received at the meeting 'concerned a child feeling uncomfortable about Mr Byrnes touching her'.[192]

According to Mr Hayes, Mr Fry advised him 'that if the parent sees criminal activity, he's to go straight to the police'.[193] Mr Hayes informed Mr Fry that he had provided this advice to KQ. Mr Fry stated, 'then we may be dealing with inappropriate behaviour'.[194] According to Mr Hayes, Mr Fry informed him that he would need to involve Mr Hunter, 'the diocesan Student Protection Officer', and that Mr Hunter was unavailable and that they would ring back the next day.[195]

Mr Fry gave evidence that he did not have a telephone conversation with Mr Hayes on 6 September 2007.[196]

## 3.2 Telephone conversation between Mr Hayes, Mr Fry and Mr Hunter on 7 September 2007

On Friday 7 September 2007, Mr Hayes was absent from the school attending a medical appointment in Brisbane.[197] He spoke by phone with Mr Fry and Mr Hunter about the information received from KH.[198] Mr Hayes stated that he was in a food court at the time of the conversation.[199]

Mr Hunter was an SEO who had worked in that capacity since the latter part of 2004.[200] He was formally appointed an SEO at the start of 2005.[201] Mr Hunter had worked as a teacher at various Catholic primary and secondary schools from 1973 to 1987.[202] Between 1987 and 2004, Mr Hunter was the founding principal of a secondary school in Darwin and a Youth and Community Learning Centre within the Diocese of Toowoomba.[203]

By 2007, Mr Hunter had particular responsibility for 'overseeing student protection training and the development of related resources for all schools in the Diocese'.[204] It was also part

of his responsibilities to maintain statistics about the number of reports of child sexual abuse received by the TCEO.[205]

Mr Hayes did not have with him Ms Long's typewritten note of the meeting with KH and KQ, at the time of the telephone conversation with Mr Fry and Mr Hunter.[206] According to Mr Hayes, he informed Mr Fry and Mr Hunter that:

- he 'had received a phone call that week from a parent regarding what his daughter was saying at home about Mr Byrnes', the substance of which was that she (the daughter) 'was uncomfortable when [Mr Byrnes] touched her';[207]
- when Mr Hayes communicated this information to Ms Long, 'she told me how Gerry gave out lollies to girls and how girls hung off him in the playground';[208]
- when Mr Hayes communicated the same information to Ms Smith, Ms Smith told Mr Hayes 'how another staff member had mentioned to her about Gerry having a girl sitting on his knee during class time';[209]
- Mr Hayes was unaware of these behaviours until he was informed by Ms Long and Ms Smith;[210]
- during the meeting on 6 September 2007, KH had demonstrated that Mr Byrnes had put his hand inside the buttoned part of her shirt but not on her skin.[211]

Later that day, Mr Fry made a handwritten note of this telephone conversation.[212] Mr Fry's statement to the Royal Commission dated 14 February 2014 asserted that Mr Hayes provided the following information during the telephone conversation:[213]

> Mr Hayes stated that this was not an official complaint from the parent, it was information provided on an informal basis. The Principal stated to us that the student reported feeling uncomfortable about three things:
>
> - Mr Byrnes sitting with his arm around the shoulders of the child and across the top of the front of the child's shirt. It was reported as not being skin to skin contact but rather as the defendant teacher's hand being on the child's school shirt at collar height;
> - Mr Byrnes's hand brushing against and touching lightly the child's thigh, towards the top of the thigh. It was reported as not being skin to skin contact, but rather the defendant teacher brushing the child's uniform at thigh height;
> - Mr Byrnes had been observed giving a kiss to a female student on the cheek at the front of the class during class time.
>
> The above is the substance of what was stated by Mr Hayes as being reported by the parent during the phone conversation with Mr Hunter and me.
>
> During this same telephone conversation, Mr Hayes mentioned other concerns about Mr Byrnes's behaviour noted by him and arising from staff comments. I understood from this that different staff members had reported to Mr Hayes their concerns about particular aspects of Mr Byrnes's behaviour. Mr Hayes did not name the staff members who had reported these concerns. I was also not aware of the dates the concerns were reported or the dates of the behaviour complained of. The three concerns were:

- the distribution by Mr Byrnes of lollies to female students
- female students seemed to sit on Mr Byrnes's lap during lessons
- Mr Byrnes being the centre of attention for students when he was on playground duty.

> Mr Hayes advised that he had previously spoken with Mr Byrnes on 5 July 2007 about these concerns about this behaviour. Mr Hayes reported mentioning to Mr Byrnes the following:
>
> - the importance of keeping hands to oneself
> - the development of perceptions by some staff about Mr Byrnes's behaviours giving rise to concern
> - that it would be sensible for Mr Byrnes to review the student protection powerpoint
> - that the perception of the student is important, particularly in comparison with the teacher's perception of the student protection kit.

Mr Hayes did not inform Mr Fry and Mr Hunter that KH had alleged that Mr Byrnes had 'put his hand up our skirts'.[214] He did not inform Mr Fry and Mr Hunter that he suspected that Mr Byrnes had sexually abused KH[215] and provided the following explanation for not doing so:[216]

> Not because of any conscious decision. Hindsight is a wonderful thing. I was more focused on ensuring that I worked with my employer and my system to ensure that we handled – not 'we handled' – that correct procedures were followed.

Mr Hayes subsequently agreed that there was '[n]othing really' stopping him from expressing an opinion to Mr Fry and Mr Hunter that Mr Byrnes had sexually abused KH.[217]

According to Mr Hayes, Mr Fry informed Mr Hayes that he and Mr Hunter were consulting a flowchart in 'a manual, the guidelines, the kit'.[218] Mr Hunter also stated that during the telephone conversation, Mr Fry obtained a copy of the student protection kit and he and Mr Fry made reference to it.[219]

Mr Fry gave evidence that he and Mr Hunter 'stepped through the flowchart'.[220] Mr Fry could not recall doing this during the telephone conversation with Mr Hayes but stated that this 'may have' occurred.[221] Mr Fry stated that he certainly recalled this process occurring after the telephone conversation with Mr Hayes.[222] According to Mr Hayes, Mr Fry and Mr Hunter advised him that Mr Byrnes's conduct 'was inappropriate behaviour'.[223]

Mr Fry informed Mr Hayes that, from the description of Mr Byrnes's behaviour, it was not behaviour of the kind that needed to be reported to police.[224] According to Mr Fry, his assessment of Mr Byrnes's behaviour was that it was 'inappropriate conduct'.[225] He described 'inappropriate conduct' as being '[c]onduct that would be unprofessional and would give rise for concerns about the relationship between the staff member and the student'.[226]

Mr Hunter stated that he concluded that Mr Byrnes's conduct as described by Mr Hayes was 'inappropriate touching' in accordance with the definition in the student protection kit.[227]

In evidence, Mr Hayes initially denied any conversation with Mr Fry or Mr Hunter about whether the allegations needed to be reported to police.[228] Later, Mr Hayes stated that he could not recall either Mr Fry or Mr Hunter reminding him about the requirement for allegations of sexual abuse to be reported to police.[229]

Mr Hayes did not ask Mr Fry and Mr Hunter whether the information disclosed by KH should be reported to the police.[230] Nor did Mr Hayes suggest that the allegations should be reported to police.[231] He nevertheless remained of the opinion that the information disclosed by KH constituted serious allegations of sexual abuse.[232]

Mr Hunter stated that the conduct described by Mr Hayes should be assessed as non-criminal and as 'potentially a minor breach of professional standards'.[233] Mr Hunter relied upon the disciplinary procedure provided for by clause 3.3 in section 2 of Part 3 of the student protection kit.[234]

Mr Fry initially stated that he and Mr Hunter had both formed the view that the behaviour of Mr Byrnes described by Mr Hayes 'should be treated seriously as a breach of professional standards'.[235] In evidence, Mr Fry agreed that the behaviour had been assessed in a manner consistent with 'a potentially minor breach of professional standards', not 'a potentially serious breach of professional standards'.[236] Mr Fry accepted that, with the benefit of hindsight, Mr Byrnes's behaviour was not a minor breach of professional standards.[237]

Mr Fry and Mr Hunter advised Mr Hayes to send a disciplinary letter to Mr Byrnes.[238]
Mr Hunter stated Mr Hayes said words to the effect, 'That seems a bit tough on Gerry'.[239]
Mr Hayes denied making this statement.[240]

# 4 Another Disclosure

## 4.1 Disclosure to Megan Wagstaff on 7 September 2007

At about the same time that Mr Hayes was speaking with Mr Fry and Mr Hunter about KH's disclosure, back at the school, Megan Wagstaff received a telephone call from the mother of another girl in Mr Byrnes's class at the school.[241] Ms Wagstaff was the Assistant Principal Religious Education (APRE). She acted in the position of deputy principal while Mr Hayes was away for short periods of time.

The mother to whom Ms Wagstaff spoke informed her that the previous day, her daughter had overheard a conversation between KA and KH at after-school care in which KA had said that Mr Byrnes had put his hands down her pants.[242] Ms Wagstaff made a handwritten note of the telephone call. She typed her handwritten notes later the same day.[243]

Ms Wagstaff did not construe the information she had received as a report or an allegation of sexual abuse.[244] Nor did Ms Wagstaff suspect sexual abuse[245] or believe that she was dealing with sexual abuse.[246]

According to Ms Wagstaff, she did not attempt to form her own opinion about the truth or otherwise of the allegation. She simply recorded what she had been told during the telephone conversation which included an expression of concern by the mother that the girls were not telling the truth.[247] Ms Wagstaff gave the following evidence:[248]

> Q. You didn't have a suspicion, because you doubted the truth of the allegation?
>
> A. What the mother told me is she doubted that, so that was the information that I got that I put in my report, is the mother thought that the girls weren't telling the truth; she was reporting it because she believed they were talking inappropriately about a teacher.'

Ms Wagstaff was not aware of provisions in the student protection kit to the effect that if there is doubt about the allegation, the decision about how to assess the information must be made in favour of acting on the allegation in the manner provided for by the kit.[249]

At the time that Ms Wagstaff had the telephone conversation, she was aware of the concept of grooming as 'something somebody would do to win the trust of a child'.[250] Grooming behaviours included giving lollies to children.[251]

Prior to receiving the telephone call, Ms Wagstaff had attended one regular in-service training session each year, of approximately two hours duration,[252] relating to child protection issues.[253] Mr Hayes gave similar evidence to the effect that one annual training day was held for all school staff. The duration of instruction and discussion about child protection matters 'depended on the questions you got, or whatever' but, generally, it was '45 minutes to an hour'.[254]

Ms Wagstaff had no recollection of any of the training sessions that she had attended dealing with the question as to how to deal with an allegation which may have been attended by some doubt.[255]

At one or more of the training sessions, Ms Wagstaff was told to read the student protection kit[256] but she did not do so unless she needed to use it. Prior to 2009, there were no occasions on which Ms Wagstaff felt it necessary to consult and make use of the student protection kit. Ms Wagstaff had looked at the student protection kit but not on many occasions[257] and had never read it from cover to cover.[258]

## 4.2 Conversation between Ms Wagstaff and Ms Long on 7 September 2007

Immediately after the call, Ms Wagstaff spoke with Ms Long and told her some or all of the discussion with the mother. Ms Long denied that Ms Wagstaff told her that the information she had received was to the effect that Mr Byrnes had put his hands down the pants of a girl.[259]

Ms Long counselled Ms Wagstaff against speaking with KA directly because the information was 'third hand'. Ms Long also suggested to Ms Wagstaff that she inform the mother that she could not speak with KA directly, and that Ms Wagstaff should speak with both Mr Fry and Mr Hayes.[260]

After receiving the information from Ms Wagstaff on 7 September 2007, Ms Long's opinion in relation to the allegations against Mr Byrnes changed. By this time, Ms Long was of the opinion that 'clearly [Mr Byrnes] had to be investigated, so something inappropriate – something was not right'.[261] Despite her change of mind, Ms Long did not document her concerns or take any other action 'because I wasn't the first person to receive that complaint'.[262]

## 4.3 Conversation between Ms Wagstaff and Mr Fry on 7 September 2007

According to Ms Wagstaff, a short time later she spoke by telephone with Mr Fry. Ms Wagstaff stated that she told Mr Fry about the substance of the conversation with the student's mother and that Mr Fry agreed with the approach suggested by Ms Long. Ms Wagstaff stated that Mr Fry advised that the information should be put in writing and given to Mr Hayes. Ms Wagstaff took this advice.[263]

Mr Fry stated that he had no memory of any such conversation with Ms Wagstaff.[264]

## 4.4 Conversation between Ms Wagstaff and Mr Hayes on 7 September 2007

The same day, Ms Wagstaff called Mr Hayes, who was in Brisbane, and told him the substance of the call. Ms Wagstaff gave a typewritten note of the telephone conversation to Mr Hayes's wife later the same day, to be conveyed to Mr Hayes.[265]

Mr Hayes also gave evidence that he received a call from Ms Wagstaff regarding her telephone conversation with the mother.[266] He described Ms Wagstaff's description of the conversation as being 'similar to the conversation I had earlier in the week, but just a bit more full on'.[267]

Mr Hayes had earlier corrected paragraph 11 of his statement dated 4 February 2014 to remove any reference to Ms Wagstaff as having been involved in a conversation with Ms Long and Mrs Smith after Mr Hayes took the call from KQ on 3 September 2007.[268] Although Mr Hayes's statement did not refer to any other conversations with Ms Wagstaff earlier in the week, he gave evidence that Ms Wagstaff would have been aware of Mr Hayes's meeting with KQ and KH the previous day:[269]

> Q. Nowhere in your statement do you say that you had a conversation with Megan Wagstaff other than the one of 3 September, which you've now retreated from, and the one on 7 September, which you say you now had?
>
> A. Well, it's not in my statement because I didn't realise it was that important for you that in the day-to-day business of an admin team at school, particularly working around what we were working around – it certainly was my understanding that at some stage we'd had a conversation. Our admin team met regularly, and so it certainly – I won't accept your assertion that I'd not had a – that Megan did not know that that meeting was a student protection meeting.
>
> …
>
> Q. So what you're saying now is that rather than having a specific conversation with Ms Wagstaff on the Monday about your call with the father, you are saying that Ms Wagstaff's state of knowledge in that week of 3 September 2007 was merely that there was a student protection meeting happening with a parent and a child?
>
> A. Yes, she would have known who it was.

Mr Hayes denied that he was 'speculating' about Ms Wagstaff's state of knowledge regarding the meeting on 6 September 2007.

When asked whether he had had a conversation with Ms Wagstaff about the telephone call from KQ on 3 September 2007, Mr Hayes gave the following evidence:[270]

> Q. I'll put it to you again, and if you could just indulge me with a 'yes' or 'no' answer, I would be really grateful. Did you have a conversation with Ms Wagstaff about the first phone call from [KQ], the father?

> A. Well, yes. You're telling me to answer it 'yes' or 'no'. It's difficult, but I'm saying, yes, in the life of the school, my recollection is that Megan knew I was meeting – at a meeting on that Thursday afternoon. When you say 'conversation', I mean you're thinking of a one-on-one conversation. But I'm saying a conversation could be just standing in each other's office, 'How did your week go at the ski trip?', filling her in on what was happening this week on her return to school.'

Mr Hayes accepted that the information received from Ms Wagstaff to the effect that Mr Byrnes had put his hands down a girl's pants, was as serious as the allegation by KH that Mr Byrnes 'put his hand up our skirts'.[271]

Ms Wagstaff did not complete and submit the form provided in the student protection kit. She made a written note of the information she received on 7 September 2007, which contained the substance of what was required by the form. She also advised Ms Long, Mr Fry and Mr Hayes of the information she had received and provided her notes to Mr Hayes.

At the time that Ms Wagstaff advised Mr Hayes and Ms Long of the substance of the mother's complaint, both were aware that the girl referred to in the complaint was the same girl that KH had reported on 6 September 2007. Ms Wagstaff did not have this same knowledge.

# 5 Byrnes Resigns

## 5.1 Disciplinary letter to Mr Byrnes

At 8.00 am on Monday 10 September 2007, Mr Hayes sent an email to Mr Fry, attaching a draft disciplinary letter to Mr Byrnes[272] which stated:

> As a follow up to our conversation on Wednesday 5 September, I wish to place in writing my expression of concerns regarding your recent alleged unprofessional conduct. As you know these concerns emanate from reports sourced from staff and parents of children in your current Yr 4 class.
>
> A summary of these concerns includes:
>
> - The distribution of lollies, by you, to girls, not only in your class, but also to Yr 7 girls. In particular, the placement of a chocolate bar in the desk of a Yr 7 girl.
> - Frequent visits by Yr 7 girls to your classroom before and after school.
> - The placement of girls in your class on your knee.
> - The 'attention' of girls around you whilst performing playground duty.
>
> Since our meeting last week, further reports of concern have surfaced. Within the past week, two parents of girls in your class have contacted me to outline their concerns about alleged incidents by you, with girls in your classroom. A summary of these concerns (the first three dot points were outlined directly by a girl in your class) include:
>
> - Kissing a girl on the cheek.
> - Placing your hand around a girl and down the front of the sports uniform shirt through the buttoned part which made her uncomfortable.
> - Placing your hand on the upper leg of the same girl, that made this girl uncomfortable.
> - Placing your hand down the pants of a girl.
> - Frequently on the verge of saying the 'sh' and 'f' word.
>
> Gerry, the reporting of these incidents follows a pattern that is worrying. As outlined in the CEO Student Protection and Risk Management Kit, this alleged behaviour can be seen as inappropriate behaviour. As outlined in this Risk Management Kit, I invite you to reply, in writing to me, with regards to these allegations, by Friday 21 September.
>
> Find attached to this letter, Appendix 7 from Section 3 of this Kit that outlines the discipline procedures for staff. I encourage you to read this article closely. Also, enclosed is Appendix 8 from Section 3 of the CEO Kit which outlines the difference between 'appropriate and inappropriate' touching. Again, your close reading of this article is strongly recommended.
>
> In conclusion, I reiterate my advice from our previous meeting. These are serious accusations about your behaviour that leave you vulnerable. It is your responsibility to

amend your professional conduct so as to ensure any potential for further allegations do not surface.

Touching of any child is only appropriate if there is 'benefit to the child'. The starting point for any inappropriate touching of a child is the perception of the child rather than the intention of the adult. Therefore, if the child is uncomfortable then the behaviour is inappropriate.

Gerry, I look forward to your written reply. In the meantime I request that you evaluate your conduct and amend your actions as necessary so that your professional relationships with students of the school can not be questioned.

The allegation in the second series of dot points to the effect that Mr Byrnes had put his fingers through the buttoned part of a girls sport's shirt, was new in the sense that it had not been communicated to Mr Fry and Mr Hunter by Mr Hayes during the telephone conversation on 7 September 2007.[273]

The allegation in the second series of dot points, that Mr Byrnes had placed his hand down the pants of a girl, had also not been conveyed by Mr Hayes to Mr Fry and Mr Hunter on 7 September 2007.[274] Mr Fry believed that this was a particularly serious allegation.[275]

The draft letter did not include the allegation by KH that Mr Byrnes had 'put his hand up our skirts'. This was notwithstanding that Mr Hayes had Ms Long's typewritten note of the meeting with KH and KQ in his office at the school from where he sent the email.[276] Mr Hayes stated that this omission 'wasn't a conscious decision'[277] and that it was caused by his haste in wanting to get the draft letter to the TCEO as quickly as possible.[278] Mr Hayes agreed that the omission was 'less than careful', but he denied that he was a 'sloppy operator'.[279]

At some time during the morning of 10 September 2007, Mr Fry showed Mr Hunter the draft letter to Mr Byrnes.[280] Mr Hunter advised Mr Fry to speak with Mr Hayes about the new allegations that Mr Byrnes had put his hand through the buttoned part of a girl's shirt and that he had put his hand down the pants of a girl. Mr Hunter further stated that he said to Mr Fry that 'if the allegations were as described in the draft letter then the matter would have to be reported to the police'.[281]

At 3.10pm on 10 September 2007, Mr Fry replied to Mr Hayes's email and attached a revised draft of the letter to Mr Byrnes which differed from Mr Hayes's original draft in two ways:

- first, the allegation that Mr Byrnes had placed his arm around the shoulder of a girl had been slightly amended to state 'Placing your arm around the shoulder of a girl and fingers into the front of the sports uniform shirt through the buttoned part which made her uncomfortable', and
- second, it added two paragraphs at the end of the letter as follows:

> 'In the meantime you are required to carry out your duties professionally and;
>
> 1. to maintain strict confidentiality about this matter, and

2. not to discuss this matter with other staff, parents or students.

The above directives do not of course preclude you seeking assistance from the Union or other legal advice.'

Mr Fry's email raised questions about aspects of the 'concerns' set out in Mr Hayes's original draft, including the allegation that Mr Byrnes had put his hand down the pants of a girl. The email stated:[282]

'Since our meeting last week, further reports of concern have surfaced. Within the past week, two parents of girls in your class have contacted me to outline their concerns about alleged incidents by you, with girls in your classroom. A summary of these concerns (the first three dot points were outlined directly by a girl in your class) include:

- Kissing a girl on the cheek.
- Placing your arm around the shoulder of a girl and fingers into the front of the sports uniform shirt through the buttoned part which made her uncomfortable.
- Placing your hand on the upper leg of the same girl, that made this girl uncomfortable.
- Placing your hand down the pants of a girl.
- Frequently on the verge of saying inappropriate and unacceptable language.'

1. Were you contacted by two parents of more than one girl or the two parents of one girl?
2. The five dot points need to present more specific information about the summary of concerns. That is, information about who, when and where.
3. 'Placing your hand down the pants of a girl'.

Please phone so that we can discuss these aspects and further revise the letter as necessary.

On 11 September 2007, Mr Hayes spoke by telephone with Mr Fry about the draft letter.[283] According to Mr Hayes, he informed Mr Fry that:

- the source of the 'hand down the pants' allegation was a telephone call from a parent which had been taken by Ms Wagstaff; and
- he understood that because the information received from the parent was 'second-hand', it could not be acted upon.[284]

Mr Fry gave evidence that Mr Hayes said that the allegation that Mr Byrnes had put his hand down the girl's pants was 'some gossip'.[285] Mr Fry had responded by saying that he was not interested in 'gossip as gossip' because gossip could be harmful.[286] Mr Fry said that his reason for expressing this opinion was because 'I wanted to establish some better form of information than what he was claiming to be gossip'.[287] Mr Fry gave evidence that it was not his role to conduct an investigation into the information.[288]

Mr Hayes gave evidence that Mr Fry advised that the 'hand down the pants' allegation should be taken out of the draft letter,[289] which was not disputed by Mr Fry. Mr Hunter

stated that he was never consulted about deletion of the allegation that Mr Byrnes had placed his hand down the pants of a girl.[290]

Mr Hayes accepted that the effect of omitting the allegation that Mr Byrnes had put his hands down the pants of a girl was to give the benefit of the doubt to Mr Byrnes.[291] Similarly, Mr Fry accepted that removing the allegation from the letter minimised the seriousness of the allegations against Mr Byrnes.[292]

Mr Hayes did not inform Mr Fry about KH's allegation that Mr Byrnes had 'put his hand up our skirts'.[293] Mr Hayes did not express any concern to Mr Fry that sexual abuse had occurred.[294] Mr Hayes did not say to Mr Fry words to the effect, 'These are serious allegations of sexual abuse. They should be reported to police'.[295]

In relation to his failure to inform Mr Fry and Mr Hunter of his belief that the allegations were of sexual abuse, Mr Hayes later stated:[296]

> It's an oversight that I find very hard to come to terms with, and given the implications of that, it brings a lot of hurt to me and my family, and life has changed because anyone who knows me knows that I am a pedantic person and – I just – I can't reason with it…

Mr Fry gave evidence that the allegation that Mr Byrnes had put his hand through a girl's shirt constituted 'sexual touching' and therefore 'sexual abuse' within the meaning of the student protection kit.[297] Mr Fry accepted that the allegation that Mr Byrnes had put his hand down the pants of a girl was a serious allegation of sexual abuse[298] although he did not recognise as such at that time.[299]

Mr Fry stated that it had been an 'error of judgment on my part' not to have formed the view that the original draft letter to Mr Byrnes contained allegations of sexual abuse or at least sufficient information to form a reasonable suspicion of sexual abuse.[300]

In Mr Hunter's opinion, the two new allegations in the draft letter to Mr Byrnes 'described conduct that was almost certainly sexual abuse'.[301]

Mr Hunter initially accepted that the allegations should have been reported to the police.[302] He subsequently denied that as at 10 September 2007, he knew that the allegations needed to be reported to the police.[303] Mr Hunter later accepted that the allegations should have been reported to the police, but denied that he was responsible for making the report.[304]

On 11 September 2007 at 12.15pm, Mr Hayes sent Mr Fry a revised draft which omitted the allegation that Mr Byrnes had put his hands down a girl's pants.[305] It also inserted a new sentence into the paragraph introducing the second series of dot points. The revised draft of this paragraph stated (emphasis added for the new sentence):[306]

> Since our meeting last week, further reports of concern have surfaced. Within the past week, parents of two girls in your class have contacted me to outline their concerns about alleged behaviour that can be seen as inappropriate behaviour. *Unfortunately, these parents were unable to provide specific information regarding when these alleged behaviours occurred that gave rise to their concerns.* A summary of these concerns (these dot points were outlined directly by a girl in your class) include:…

Mr Hayes did not include in the revised draft the allegation by KH that Mr Byrnes had 'put his hand up our skirts'.[307] Mr Hayes agreed that:

- on no fewer than three occasions he failed to disclose to Mr Fry KH's allegation that that Mr Byrnes had 'put his hand up our skirts';[308] and
- he had had ample opportunity to include that allegation in the revised draft.[309]

Mr Hayes rejected that his failure to do so was either deliberate[310] or because he did not believe the allegation.[311] He accepted that if his failure to disclose to Mr Fry the allegation by KH that Mr Byrnes had 'put his hand up our skirts' was not deliberate, it was grossly incompetent.[312]

Mr Fry stated that he had a short discussion with Mr Hunter about the revised draft:[313]

> I recall specifically discussing with Mr Hunter the change in the subsequent draft regarding the allegation about the fingers in the placket, rather than the allegation about the fingers across the front of the shirt in the subsequent draft of Mr Hayes letter. I can recall that Mr Hunter was running late for a meeting at St Joseph's, Stanthorpe. I knocked on his door and walked in. I had the letter in my hand and said words to the effect of, 'The principal has changed some matters in the draft letter.' I held the letter out and we both said words to the effect of, 'What is going on?' I asked Mr Hunter whether he should take this matter to the police. A final conclusion was not reached due to the rushed circumstances of the meeting. The meeting would have lasted at most one to two minutes.

Mr Hunter stated that he had no further involvement with the matter after he received a copy of Mr Fry's email to Mr Hayes dated 10 September 2007.[314] Mr Hunter denied discussing the revised draft with Mr Fry on 11 September 2007.[315]

According to Mr Fry, he subsequently sent an email to Mr Hayes 'saying that there were inconsistencies'.[316] Mr Fry further stated:

> … The email also included an often frequently made comment to principals that it is not our role to investigate as that is the role of the police. The email advised that if Mr Hayes held a reasonable suspicion that a criminal offence had been committed, that it should be reported to the police.

The email referred to by Mr Fry was not annexed to his statement, was not otherwise adduced into evidence, and has not been produced to the Royal Commission.[317]

Mr Fry gave evidence that the advice to the effect that criminal allegations should be reported to the police was 'to cover that possibility' of potential allegations of sexual abuse 'and I wanted Mr Hayes to be aware of the seriousness of the matter'.[318]

Mr Hunter initially stated that he had assumed that Mr Fry would follow the matter up and 'do his job'.[319] He subsequently gave evidence that Mr Fry was the SEO for the school and that it was therefore his job to deal with differences between the contents of the draft letter received on 10 September 2007 and the telephone conversation with Mr Hayes on 7 September 2007.[320] Mr Hunter later accepted that he had an involvement in the matter and 'probably should have followed up'.[321]

On 11 September 2007 at 12.53pm, Mr Fry replied to Mr Hayes's email stating:[322]

> The further amended version of the letter looks OK to me.
>
> I suggest that you inform Gerry that your letter is written on the advice of the CEO, in particular, your SEO. As part of the procedure the employing authority has a responsibility to maintain records in these matters. Hence, a copy of the correspondence will be filled at the CEO.
>
> I will drop off copies of 'Integrity In Relationships' on my way to Dalby this afternoon.

On 12 September 2007, Mr Hayes met with Mr Byrnes and handed him the final letter as approved by Mr Fry.[323]

## 5.2 Mr Byrnes's reply to disciplinary letter

On 20 September 2007, Mr Byrnes replied to Mr Hayes's letter[324] and accepted that:

- he had distributed lollies to girls and boys in his class and in other classes
- he had placed a chocolate bar on the desk of a girl in his class
- he had received frequent visits from boys and girls to his classroom both during and after school hours
- he had allowed girls to sit on his knees
- his teaching style included occasional and brief supportive or friendly pats on students' arms, upper backs or shoulders
- he had hugged students.

The letter did not deny the balance of the allegations or concerns set out in Mr Hayes's letter but, instead, stated that Mr Byrnes did not recall what had occurred.

Mr Hayes sent Mr Byrnes's reply to Mr Fry.[325] Mr Fry did not think that Mr Byrnes's reply contained admissions of grooming behaviours. However, in evidence, Mr Fry accepted that the letter could be characterised in that way.[326] Similarly, Mr Hayes accepted that the response by Mr Byrnes indicated that Mr Byrnes posed a risk to the safety of students at the school.[327]

According to Mr Hayes, after he received Mr Byrnes's letter he spoke with Ms Long, Ms Wagstaff and Ms Smith and said words to the effect, 'I want to make sure that we put in a system of monitoring and supervision of [Mr Byrnes]'.[328] According to Mr Hayes, his intention was to 'mak[e] sure that without [Mr Byrnes's] knowledge, we continued to supervise and monitor him'.[329] Mr Hayes did not inform Mr Byrnes that he would be placed under any form of supervision arrangement.[330]

According to Mr Hayes, he asked Ms Long to visit Mr Byrnes's classroom several times a week. Ms Long gave evidence that Mr Hayes said to her: 'This is what I want you to do. This is what I think we need to do. We need to have more presence'.[331]

Ms Wagstaff denied that she had been requested by Mr Hayes to monitor or supervise Mr Byrnes.[332] Mr Hayes took no other action against Mr Byrnes.[333]

Mr Hayes was responsible for the appointment of student protection contacts at the school.[334] He did not revoke or recommend the revocation of Mr Byrnes's appointment as a student protection contact. Mr Hayes acknowledged that in light of the information that had been disclosed by KH and from what Mr Byrnes himself had stated in his correspondence, it was poor judgment to have permitted Mr Byrnes to continue in the role of student protection contact.[335]

Mr Fry stated that '[i]t wasn't in my mind' that Mr Byrnes was a student protection contact.[336] Mr Fry may have known but 'it didn't connect in my mind'.[337] Mr Fry accepted that had been aware that Mr Byrnes was a student protection contact, he should have recommended or given some advice to Mr Hayes that Mr Byrnes's appointment should, at the very least, be reviewed.[338]

- **Finding 6:** Mr Hayes did not inform either Mr Fry or Mr Hunter of KH's most serious disclosure that Mr Byrnes had 'put his hand up our skirts'. Mr Hayes could have, but did not, communicate the disclosure to Mr Fry during the telephone conversation of 7 September 2007, in the draft disciplinary letter of 10 September 2007 and/or in the revised draft disciplinary letter of 11 September 2007. Mr Hayes gave no plausible explanation for this gross incompetence on his part. The failure to communicate this most serious disclosure to those from whom he sought professional advice and guidance contributed to that advice being compromised.
- **Finding 7:** Each of Mr Fry and Mr Hunter should have ensured that the allegations contained in the draft disciplinary letter were reported to the police.
- **Finding 8:** Upon receiving allegations of child sexual abuse against Mr Byrnes in September 2007, the steps taken by Mr Hayes to monitor Mr Byrnes's conduct were inadequate and inappropriate to manage the risks posed by Mr Byrnes to children at the school.
- **Finding 9:** Mr Hayes should not have allowed Mr Byrnes to continue in the position of student protection contact following receipt of the allegations against him in September 2007.
- **Finding 10:** The safety of children at the school was put at risk because Mr Hayes:
  - did not comply with reporting procedures set out in the school's applicable student protection kit
  - did not report the allegations to the police and
  - did not inform Mr Fry and Mr Hunter of the most serious allegation made against Mr Byrnes.

- **Finding 11:** Mr Hayes and Mr Fry minimised the seriousness of the allegations they received by leaving out the 'hands down the pants' allegation from the disciplinary letter to Mr Byrnes and taking no other action.

## 5.3 Mr Byrnes resigns

In June 2008, the mother of another of Mr Byrnes's students wrote to Mr Hayes complaining that Mr Byrnes had behaved in a 'bullying', 'intimidatory', 'humiliating' and 'threatening' manner towards her daughter.[339] Mr Hayes sent a copy of the complaint to the TCEO and requested advice as to how to deal with the matter.[340]

Shortly after, Mr Byrnes retired from his position[341] effective 27 June 2008.[342]

According to Margaret Hendriks, Mr Hayes sought a meeting with her after receiving Mr Byrnes's letter of resignation. Mr Hayes was accompanied by Peter Lynam.[343] Mr Hayes informed Ms Hendriks that he had received a letter of resignation from Mr Byrnes and sought her advice as to whether the resignation should be accepted.

Ms Hendriks replied by asking why the letter of resignation should not be accepted.[344] According to Ms Hendriks, Mr Hayes responded by saying, 'Oh, well, Mr Byrnes is finding it a bit difficult, he is having complaints from teachers – from parents, and would like to retire'.[345] Ms Hendriks asked about the complaints and was told by Mr Hayes 'that it was difficulties with the way I think the teacher [Mr Byrnes] was teaching, that some parents weren't happy with that, and generally information like that'.[346] Ms Hendriks did not enquire any further about the complaints.[347] Ms Hendriks construed the information provided by Mr Hayes as being consistent with Mr Byrnes not being 'a particularly strong teacher'.[348]

## 5.4 Mr Byrnes appointed as a relief teacher

From 30 July 2008, Mr Byrnes was re-engaged as a relief or supply teacher at the school, following approval by Ms Hendriks.[349]

According to Mr Hayes, Ms Wagstaff had asked Mr Hayes to re-engage Mr Byrnes as a relief teacher and that it was her responsibility to engage supply or relief teachers.[350] Mr Hayes said that he 'wasn't prepared to make that decision' and that he 'would have to talk to the [TCEO]'.[351] Mr Hayes rang Ms Hendriks, and gave evidence that he assumed Ms Hendriks had been informed about events in September 2007 that led to a disciplinary letter being sent to Mr Byrnes.[352]

Mr Hayes did not offer an opinion or recommendation to Ms Hendriks about whether Mr Byrnes should be re-engaged as a relief teacher,[353] and did not object to his re-engagement on that basis.[354] Mr Hayes felt comfortable about the TCEO permitting Mr Byrnes to be re-engaged as a relief teacher at the school.[355]

In evidence, Mr Hayes accepted that his failure to inform Ms Hendriks about KH's allegations was an abrogation of his responsibilities as principal to ensure the safety of students at the school.[356] To this extent, Mr Hayes was responsible for Mr Byrnes being re-engaged as a supply or relief teacher.[357]

Ms Hendriks gave evidence that Mr Hayes requested that Mr Byrnes be placed onto the list of relief teachers.[358] Ms Hendriks agreed to Mr Byrnes being placed on the list of relief teachers because '[s]ometimes people who aren't particularly strong teachers full time like to do relief and they're quite okay to do relief, a day here and there'.[359] Ms Hendriks did not take any steps to ensure that when Mr Byrnes came back as a relief teacher, the issues identified in the complaints she had knowledge of were addressed, to the extent that they could be.[360] This was because Ms Hendriks assumed that Mr Byrnes would not do much relief teaching. Ms Hendriks took no steps to limit the amount of relief teaching that Mr Byrnes could do.[361]

Between 30 July and 14 November 2008, Mr Byrnes performed duties as a relief teacher at the school on at least 15 separate days.[362] Three of the 33 counts of indecent treatment for which Mr Byrnes was ultimately convicted took place during this period.[363]

- **Finding 12:** Mr Hayes sought and enabled the re-appointment of Mr Byrnes as a relief teacher knowing of the allegations of child sexual abuse against Mr Byrnes.
- **Finding 13:** Each of Mr Fry and Mr Hunter did not report the allegations of sexual abuse against Mr Byrnes to their supervisor, Ms Hendriks, the Assistant Director of the TCEO, or the Director of the TCEO, Mr Borserio. This contributed to Mr Byrnes being permitted to be appointed a relief teacher in July 2008 because Ms Hendriks, who agreed to his appointment, was not aware of the disclosures concerning KH and KA.

# 6 Byrnes Arrested

## 6.1 Mr Byrnes arrested

In November 2008, another teacher gave a life education lesson to children in year 5. Soon after, KA complained to her mother, KO, that Mr Byrnes had put his hand down her pants and touched her chest.[364] The next morning KO went to the police and complained that her daughter had been molested by Mr Byrnes. [365] Mr Byrnes was arrested that day. On the day of his arrest, Mr Byrnes was teaching as a relief teacher at the school.[366]

Later the same day, police conducted two records of interview with Mr Byrnes. Mr Byrnes admitted to offences against six girls and denied offences against three others.[367] Ultimately, Mr Byrnes did not press these denials. He pleaded guilty to child sexual abuse offences against all nine girls mentioned during the initial records of interview, as well as an additional four girls whom he had taught in his classes at the school.[368]

## 6.2 Meeting with parents

Following Mr Byrnes's arrest, Mr Hayes attended a number of meetings with parents of children enrolled at the school. Mr Hayes denied that he told any of these parents that he had no knowledge of Mr Byrnes's sexual misconduct towards a child at the school.[369]

By contrast, a parent asked Mr Hayes a question about whether he had suspicions about Mr Byrnes's behaviour. Mr Hayes provided a 'poor response' to this question 'because [he] heard the question as: was I aware that [Mr Byrnes] was perpetrating'.[370] In evidence, Mr Hayes initially did not accept the truth of KP's evidence that, during at least one of the meetings with parents, he denied any knowledge about what had occurred in relation to Mr Byrnes's offending.[371] Mr Hayes later accepted that his 'poor response' was not the truth: 'it wasn't the answer that I should have given'.[372]

Mr Borserio stated that he attended a small parent group meeting with Mr Hayes, that Mr Hayes 'was very emotional and upset' and that 'he denied knowing anything about' Mr Byrnes's offending. Mr Borserio stated that Mr Hayes said 'that he didn't know it was sexual abuse' on a number of occasions.[373]

Mr Hayes denied or did not accept that, prior to the location by police of Ms Long's note of the meeting on 6 September 2007, he told Mr Borserio, Ms Hendriks and Bishop Morris that he knew nothing about Mr Byrnes's misconduct.[374]

## 6.3 Diocesan response to Mr Byrnes's arrest

On or about 2 December 2008, Mr Borserio became aware that in September 2007 Mr Hayes had spoken with Mr Fry and told him that he had received information from a parent of a student suggesting that Mr Byrnes may have sexually abused the student.[375]

On 1 February 2009, Bishop Morris received a telephone call from a parent of a child at the school informing him that in September 2007 Mr Hayes had received a complaint of sexual abuse by Mr Byrnes. Bishop Morris then spoke with Mr Borserio, who confirmed the information provided by the parent.[376]

On or about 22 February 2009, the Diocese established a Child Abuse Response Team (CART) 'to develop a pastoral and professional response' to Mr Byrnes's offending as well as allegations that there had been a failure to comply with mandatory reporting requirements.[377]

Bishop Morris also retained a law firm, Thynne & Macartney, to conduct an investigation into what had occurred and the circumstances in which information regarding sexual abuse had not been reported. Bishop Morris also wanted to know why the school's student protection policies and procedures had not been complied with.[378]

Among other matters, Thynne & Macartney recommended that notices be issued to each of Mr Hayes, Mr Fry and Mr Hunter to show cause as to why they should not be disciplined for their respective failures in not properly assessing and reporting the allegations of child sexual abuse received in September 2007.[379]

In the years following the arrest of Mr Brynes, the Diocese of Toowoomba also implemented changes to child protection policies and practices, as summarised in the table below.

**Changes implemented by the Diocese of Toowoomba**

| | |
|---|---|
| **Staffing** | • A standalone Student Protection Officer position for the Diocese was created in 2010.<br>• A fourth Senior Education Officer was appointed at the TCEO.<br>• The appointment process for relief teachers was changed so that it is akin to that of new teachers.<br>• The appointment process for student protection contacts within schools has been formalised. |
| **Policies and procedures** | • The Student Protection Policy and Procedure was reviewed and amended in 2010, 2012, and 2013.<br>• A standalone Code of Conduct for staff was published in 2009, and reviewed and updated in 2012.<br>• Student protection resources have been made available to parents and carers in school libraries and on the Diocesan websites. |
| **Training** | • An online induction training module for staff (which incorporates testing) was introduced in 2012.<br>• Student protection training is delivered to all staff on an annual basis and is a standing agenda item at quarterly principals' meetings.<br>• student protection contacts are provided with specialised annual training in addition to the routine student protection training for all staff. |
| **School infrastructure** | • A visibility audit of all diocesan schools was conducted, resulting in the implementation of risk management strategies and some capital works to improve visibility in classrooms.<br>• Video-conferencing has been installed in all Diocesan schools to facilitate staff training on an on-going basis, particularly in remote areas.<br>• Student protection resources have been published on school and Diocesan websites and made available to parents and carers. |

# 7 Aftermath

## 7.1 Mr Hayes tried for failing to comply with mandatory reporting legislation

On 16 November 2009, Mr Hayes was tried on a single charge of failing to comply with a mandatory reporting obligation under section 366(4) of the *Education (General Provisions) Act 2006*. Mr Hayes successfully defended the charge on the basis that he had reported to the TCEO in accordance with section 366(2) of the *Education (General Provisions) Act 2006* and that the obligation to report the information to police lay with a person in the school's governing body, not himself. [380]

When giving evidence at his trial, Mr Hayes agreed that the disclosures by KH would give rise to reasonable suspicion that sexual abuse had occurred by Mr Byrnes.[381] During his evidence, Mr Hayes agreed that at the time of the meeting with KH and KQ, he suspected that sexual abuse had occurred.[382]

## 7.2 Employment of Mr Hayes, Mr Fry and Mr Hunter terminated

On 10 December 2009, following the investigation by Thynne & Macartney and on the advice of senior counsel, Bishop Morris terminated the employment of Mr Hayes, Mr Fry and Mr Hunter.[383]

## 7.3 Employment of full-time Student Protection Officer

As at September 2007, each of the three SEOs fulfilled the responsibilities of Student Protection Officer for schools that they had been allocated.

In 2010,[384] the Diocese established a full-time position of Student Protection Officer. [385] Both Mr Fry and Mr Hunter gave evidence to the effect that if the CEO had had a dedicated full-time Student Protection Officer in September 2007, its response to disclosures of abuse of the kind made by KH and the information received from Ms Wagstaff, would probably have been better. Both Mr Fry and Mr Hunter gave evidence that dealing and responding to allegations of child sexual abuse can be complex and is not handled well by SEOs who have many responsibilities in addition to child protection. [386]

## 7.4 Changes to recruitment practices

Ms Hendriks stated that after the arrest of Mr Byrnes, TCEO procedures for the hiring of staff were revised as follows: [387]

> Now, all teacher appointments in the Diocese, not just permanent and contract positions, are coordinated through the central TCEO office to ensure transparency. All new teachers are required to provide an application form with written references and

be listed on the QCT website as registered. Non-teaching applicants are interviewed, references checked and blue card requirements checked as part of the recruitment, selection and appointment process.

## 7.5 Mr Byrnes sentenced

On 4 October 2010, Mr Byrnes was sentenced to 10 years imprisonment including a non-parole period of eight years.[388] He will not become eligible for release until 17 November 2016.

On 29 November 2011, section 366 of the *Education (General Provisions) Act 2006* was amended by the *Education and Training Legislation Amendment Act 2011* (Qld) to remedy an apparent gap in section 366, which allowed for a principal of a non-State school to avoid an obligation to give a report to police under section 366(4) if the principal:

- was the staff member who received the initial complaint, and
- had provided a report of the complaint to a director of the school's governing body.

This apparent gap in section 366 was relied upon by Mr Hayes to successfully defend a charge of failing to comply with section 366(4) of the *Education (General Provisions) Act 2006*, for which he was tried in November 2009[389] and acquitted on 1 December 2009.

As amended from 9 July 2012, section 366 provides that if the first person who becomes aware, or reasonably suspects, sexual abuse of a student is the school's principal, the principal must give a written report about the abuse, or the suspected abuse, to a police officer.[390]

## 7.6 Civil action

On 4 October 2010, Bishop Morris wrote to the families of the students who had been abused by Mr Byrnes and invited them to participate in a mediation process.[391] The Diocese engaged former High Court Justice Ian Callinan QC to act as mediator in relation to civil claims against the Diocese arising from the sexual abuse committed by Mr Byrnes.[392]

Bishop Morris 'asked Mr Callinan to assist in ensuring that each victim received fair compensation for what had happened to them'.[393] Bishop Morris 'felt that it was important that the matter be dealt with quickly and fairly so as to avoid any further suffering which might be caused by a lengthy and difficult legal process'.[394]

Many, but not all, of the families elected to participate. To date, more than $2.25 million has been paid in damages, costs and administration fees to nine victims and some family members in relation to Mr Byrnes's offences.

The evidence demonstrates that the impact of Mr Byrnes's offending was varied. In terms of impact, KR stated that in 2007 – the year in which Mr Byrnes committed a number of offences against her daughter, KE, including digital vaginal rape – KE's physical appearance changed and she 'became anaemic looking, her eyes looked sunken and grey when they

used to be shiny blue', her 'hair had become dull and dry and did not respond to treatment' and she 'lost her appetite and continually chewed and sucked her bottom lip and the inside of her mouth which often led to cracks and bleeding in this area'. KE also experienced 'bad dreams', 'tummy pains', and became introverted and withdrawn.[395]

- **Finding 14:** That on being advised of Mr Byrnes's offending and the response of the school and TCEO to the September 2007 allegations of child sexual abuse, Bishop Morris responded appropriately by:
  - commissioning an independent investigation into what occurred and seeking advice and recommendations as to any actions that needed to be taken to better protection children
  - appointing an independent mediator to assess and give advice as to reparation to victims and their families
  - establishing a Child Abuse Response Team to develop and oversee both the pastoral and professional response and to give advice to the Diocese about improvements to child protection.

# 8 Bishop Morris

## 8.1 Resignation of Bishop Morris as Bishop of the Diocese of Toowoomba

On 2 May 2011, Bishop Morris retired from the position of Bishop of the Toowoomba Diocese.[396] The circumstances of Bishop Morris's retirement were unrelated to the offences committed by Mr Byrnes and the failure of Mr Hayes and others within the TCEO to report allegations of sexual abuse made by KH or KA in September 2007. Bishop Morris retired at the request of Pope Benedict XVI following pastoral initiatives that were criticised by the Vatican as being non-compliant with Catholic Church teachings and doctrine.

# 9 Role of Accreditation Board

## 9.1 Review of student protection policies and procedures by the Non-State Schools Accreditation Board

The school was a 'Non-State school' within the meaning of section 6 of the *Education (Accreditation of Non-State Schools) Act 2001* (Qld) (Accreditation Act). To operate lawfully,[397] it was required to be accredited by the Non-State Schools Accreditation Board[398] (the NSSAB).

The NSSAB was permitted to cancel the accreditation of a non-State school on the ground that the school was not complying, or had not complied with, an accreditation criterion.[399] Section 9 of the Accreditation Act authorised the prescription of accreditation criteria by regulation, including criteria about 'student welfare processes'.

Section 10 of the *Education (Accreditation of Non-State Schools) Regulation 2001* (Qld) (Accreditation Regulation) set accreditation criteria in relation to the care and protection of students. From 19 April 2004 to 29 October 2006 it provided:

> **10 Health, safety and conduct of staff and students**
>
> (1) A school must have written processes about the health and safety of its staff and students, that accord with relevant workplace health and safety legislation.
>
> (2) Also, the school must have written processes about the appropriate conduct of its staff and students, that accord with legislation applying in the State about the care or protection of children.
>
> (3) Without limiting subsection (2), the processes must include –
>
> (a) a process for the reporting by a student to a stated staff member of behaviour of another staff member that the student considers is inappropriate; and
> (b) a process for how the information reported to the stated staff member must be dealt with by the stated staff member.
>
> (4) For the process mentioned in subsection (3)(a), there must be stated at least 2 staff members to whom a student may report the behaviour.
>
> (5) Also, without limiting subsection (2), the processes must include the following –
>
> (a) a process for reporting –
> (i) sexual abuse or suspected sexual abuse in compliance with the *Education (General Provisions) Act 2006,* section 366; and
> (ii) a suspicion of likely sexual abuse in compliance with the *Education (General Provisions) Act 2006,* section 366A;
> (b) a process for –
> (i) the reporting by a staff member, to the school's principal or another person nominated in the process, of harm that –
> (A) the staff member is aware or reasonably suspects has been caused to a student who, when the harm was caused or is suspected to have been caused, was under 18 years; and

(B) is not harm to which the process mentioned in paragraph (a) applies; and

(ii) the reporting by the principal or other person, to a relevant State authority, of the harm or suspected harm if the principal or other person also is aware or reasonably suspects the harm has been caused.

(6) The processes must –

(a) be readily accessible by the staff and students; and
(b) provide for how the staff and students are to be made aware of the processes.

Section 10 of the Accreditation Regulation has remained in similar terms.

The Deputy Chairperson of the NSSAB, Professor William Lane, gave evidence at the public hearing regarding reviews undertaken in 2004–06 and 2009 by the NSSAB of the Diocese's student protection policies and procedures.

On 6 April 2004, following the passage of amendments to section 10 of the Accreditation Regulation relating to section 146B of the *Education (General Provisions) Act 2006*, the NSSAB initiated a special 'student protection compliance program'.[400] As part of this program, the NSSAB wrote to the TCEO requesting the following:[401]

- a copy of the written processes about the conduct of staff and students mandated by subsection 10(2) and further regulated by subsection 10(3) to 10(8) of the Accreditation Regulation
- a description of how the governing body is complying with subsection 10(6) of the Accreditation Regulation
- a description of how the school is implementing the written processes [subsection 10(7) of the Accreditation Regulation].

Mr Borserio informed the NSSAB that the written processes for schools administered by the Toowoomba Diocese – including the school – followed those provided for by the Queensland Catholic Education Commission's manual for student protection (the QCEC Manual**)**, which was in the same terms as the student protection kit.

The NSSAB developed a checklist to assist staff in assessing compliance against the accreditation criteria.[402] Each item on the checklist was matched to an accreditation requirement in section 10 of the Accreditation Regulation, and included a tick box for the person completing the assessment to indicate whether or not the school's written processes were considered to be satisfactory or unsatisfactory. [403]

A checklist dated 27 February 2006 was completed for the school. The tick box for item 8 on the checklist – which related to training requirements in accordance with section 10(6)(b) of the Accreditation Regulation – was marked satisfactory.[404] A handwritten notation next to the tick box indicated that 'section 5' of the QCEC Manual was the document which evidenced satisfactory compliance with this item of the checklist.[405]

The tick box for item 9 on the checklist – which related to the governing body being able to demonstrate how the school was implementing relevant written processes – was also marked satisfactory. A handwritten notation next to the tick box for item 9 indicated that

'in-service' documents and 'parent brochures' attached to the QCEC Manual were the documents which evidenced satisfactory compliance with this item of the checklist.[406]

Section 5 of the QCEC manual related to training requirements or 'in-services' for staff at the school. It relevantly provided at 5.1.1 that 'formal in-service will be conducted bi-annually for all staff…'[407]

According to Professor Lane, the NSSAB initially assessed aspects of the QCEC Manual as non-compliant with relevant legislative requirements.[408] On 2 March 2006, following communications between the TCEO and the Office of Non-State Education, the NSSAB:

- concluded that the written processes, in conjunction with the revised QCEC Manual, met the legislative requirements as set out in section 10(2) to (6) of the Accreditation Regulation';409 and
- also concluded that the governing body had demonstrated that the schools under its governance were implementing the processes as required by section 10(7) of the Accreditation Regulation'.410

The review methodology involved 'a desktop review only of documents and responses received from the governing bodies against specific accreditation criteria'[411] being the relevant legislative requirements.[412] This included whether a school's written processes included 'a process for reporting sexual abuse or suspected sexual abuse in compliance with the *Education (General Provisions) Act 1989,* section 146B [Accreditation Regulation, section 10(5)(a)]'.[413]

Professor Lane gave evidence that the purpose of the NSSAB's review of the written processes was 'to ensure that the statutory obligation was sufficiently and clearly identified in the written policy'.[414] He stated that the NSSAB would not approve a written process 'if the secretariat [to the NSSAB] discovered that the requirement of the written process was there but was very difficult to see – for instance, in a situation where the written processes were too long or cumbersome or not clear'.[415]

In the context of the 2004–2006 review, Professor Lane gave the following evidence about how the NSSAB assessed compliance with the implementation requirements of section 10 of the Accreditation Regulation[416]:

> Q. …You were asking schools to demonstrate how the school was implementing the processes, effectively telling you what they did to train staff.
>
> A. Yes, yes.
>
> Q. My question to you is: how did you determine whether the information they provided you about their training was good, bad or indifferent?
>
> A. Yes, okay. Really it was a question of looking at each particular documentation received and making a determination on that basis. I guess I have to go back to my answer that I gave you earlier, that the board itself at this early stage hadn't generated a particular template, if you like, to tick off the adequacy – not the compliance, not the

strict compliance requirements, but how good or transparent or adequate things like the implementation processes of a particular school were…

Q. Implementation is different from process, is it not, professor …

A. Yes.

Q. … in that the process question is: is there a written process?

A. Yes.

Q. Implementation said, is the governing body able to demonstrate how? Necessarily that involves an evaluation does it not?

A. Yes, it does. Normally, from my recollection again of the secretariat's work, that would come from the documentation provided to the board, which would indicate, for instance, how they would conduct their in-service training, what they proposed to do and so forth.

Q. How did your staff determine whether what they were proposing to do was good enough or not?

A. Simply by looking at the documents provided and gauging what precisely the school said they were proposing to do.

…

Q. So in the process of the board considering compliance with the regulations that dealt with training, did the board consider whether the formal in-service training being offered as bi-annually was an appropriate frequency?

A. I can't recall that specific attention was given by the board, or possibly the secretariat, for that matter, precisely to item 5.1.1 in particular. I can only assume that it was considered at the time that that level of in-service training was an adequate measure of implementation of the policy. I can only assume that.

Q. In your assuming that it was considered adequate, can you tell the Royal Commission what was it in terms of a standard that bi-annual in-service training was considered adequate?

A. At the time, I think as I've said – and it goes back to my previous answer – we didn't have at that time a template document in terms which would assist us in deciding between the different responses we got from schools about what was adequate in this case what was not adequate in that case, or what was adequate in this case and adequate in a different case. So I think it goes back to the original answer I gave you.

…

Q. But you had prepared no guidance for your staff as to what was adequate or otherwise in terms of, for example, frequency of training?

> A. We hadn't at that stage…To answer your question precisely, back at the time we commenced this process, there was no particular standard as such, if you like, drawn up in the secretariat's office as to how what was stated to be the manner of implementation would be carried out in the documents we received. There was a tick-off list, as I said, and the legislative requirements were used against that.

Bishop Morris was of the opinion that the NSSAB's approval of the student protection kit in 2006 indicated not only that the Diocese's written processes complied with all relevant legislative requirements, but also that the NSSAB was satisfied that the policies and procedures were being properly implemented.[417]

Mr Borserio was of a similar opinion as Bishop Morris. He stated, '… in the renewal of our kit, I felt as though, when it was accredited by the NSSAB, that they had provided key – they had scrutinised it with an expert eye'. [418]

On 9 February 2009, following public revelations of Mr Byrnes's offending, the NSSAB wrote to Bishop Morris requesting information about written processes that were in place from 2007 onwards to ensure compliance with mandatory reporting legislation. The NSSAB's letter also requested information about reports of inappropriate behaviour made to staff members in 2007 or 2008, and action taken to implement the written processes.[419]

It is likely that the documents that comprised the student protection kit were in a different form to those approved by the NSSAB in 2006. Among other things, the 2009 version included a Student Protection Risk Management Strategy.[420]

On 19 August 2009, the NSSAB assessed the student protection kit as being non-compliant with sub-ss 10(2) and (7) of the Accreditation Regulation. For example, the NSSAB found: [421]

> the template written processes and the 2009 written processes … are inadequate, in that:
>
> (a) they present as too cumbersome and difficult for staff to use, due to:
>
> (i) repetition;
>
> (ii) inconsistent numbering of sections, parts, pages and clauses throughout;
>
> (iii) lack of coherent contextualisation of the document as a whole – it presents as a compendium of separate documents grouped together;
>
> (iv) overuse of emphasis of text by means of italics, bolding, capitalisation and boxes (and combinations of those);
>
> (v) more than one 'contents' page and no overall index;
>
> (b) they fail to place appropriate and clear emphasis on the concept that where there is any doubt about an allegation of harm against a student by an employee of the School, the decision must be in favour of acting on the allegation;
>
> (c) they do not reflect the requirements of section 366 of the *Education (General Provisions) Act 2006* consistently and accurately'.

Nor, in the NSSAB's opinion, was the school's governing body able to demonstrate that the written processes were being implemented. This finding was inferred from the NSSAB's assessment of the relevant facts regarding the failure to report the allegations of child sexual abuse made by KH or KA.[422]

Between 19 October 2009 and 30 August 2010, the NSSAB received and considered several revisions of the student protection kit.[423] On 11 October 2010, the NSSAB informed the Corporation that it was satisfied that the revised written processes complied with relevant legislative requirements. On 24 October 2011, the NSSAB informed the Corporation that it was satisfied that the Corporation had demonstrated implementation of the written processes.

The review conducted by the NSSAB between 2009 and 2011 was the same kind of review as that conducted between 2004 and 2006, with the exception that the NSSAB took independent advice from Crown Law. The NSSAB did not conduct an evaluation of the adequacy or efficacy of training or other initiatives for implementation of the written procedures provided for in the kit. Professor Lane gave the following evidence:[424]

> Q. In 2009, did you have in place that standard or template?
>
> A. No, in 2009, we didn't have a document of the kind that you were describing earlier as a general template standards document, if you like, that we would use to assess. We continued to use a tick-off list that looked for the legislative requirements and whether they were met, but, no, the answer is the same as before.
>
> Q. When you were looked at the legislative requirements, they still required an evaluation of some aspects of the processes, didn't they?
>
> A. In 2009?
>
> Q. Yes.
>
> A. Yes.
>
> Q. Because it hadn't changed, had it, effectively?
>
> A. No, the legislation, in essence, hadn't changed. It had been slightly reformulated, but no.
>
> Q. So the evaluation that was undertaken in 2009 didn't benefit from any standards against which you judged what was being evaluated?
>
> A. Again, we didn't have a document of the kind you're describing as a generic standard that we used to match the responses back in the office, to my understanding, anyway.

- **Finding 15:** The Non-State Schools Accreditation Board does not apply any articulated standards or benchmarks to assess the adequacy of training programs or other initiatives for the implementation of written processes for child protection.

# 10 Systemic issues

The systemic issues arising from this case study are as follows:

- Reporting allegations of child sexual abuse to an external agency
- training and supervision of staff working with children, including dissemination of policies and their enforcement together with on-going evaluation of the effectiveness of the training.

# APPENDIX A: Terms of Reference

## Letters Patent dated 11 January 2013

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,
Mr Robert Atkinson,
The Honourable Justice Jennifer Ann Coate,
Mr Robert William Fitzgerald AM,
Dr Helen Mary Milroy, and
Mr Andrew James Marshall Murray

GREETING

WHEREAS all children deserve a safe and happy childhood.

AND Australia has undertaken international obligations to take all appropriate legislative, administrative, social and educational measures to protect children from sexual abuse and other forms of abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of child abuse.

AND all forms of child sexual abuse are a gross violation of a child's right to this protection and a crime under Australian law and may be accompanied by other unlawful or improper treatment of children, including physical assault, exploitation, deprivation and neglect.

AND child sexual abuse and other related unlawful or improper treatment of children have a long-term cost to individuals, the economy and society.

AND public and private institutions, including child-care, cultural, educational, religious, sporting and other institutions, provide important services and support for children and their families that are beneficial to children's development.

AND it is important that claims of systemic failures by institutions in relation to allegations and incidents of child sexual abuse and any related unlawful or improper treatment of children be fully explored, and that best practice is identified so that it may be followed in the future both to protect against the occurrence of child sexual abuse and to respond appropriately when any allegations and incidents of child sexual abuse occur, including holding perpetrators to account and providing justice to victims.

AND it is important that those sexually abused as a child in an Australian institution can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify.

AND noting that, without diminishing its criminality or seriousness, your inquiry will not specifically examine the issue of child sexual abuse and related matters outside institutional contexts, but that any recommendations you make are likely to improve the response to all forms of child sexual abuse in all contexts.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you, to inquire into institutional responses to allegations and incidents of child sexual abuse and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

a. what institutions and governments should do to better protect children against child sexual abuse and related matters in institutional contexts in the future;

b. what institutions and governments should do to achieve best practice in encouraging the reporting of, and responding to reports or information about, allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;

c. what should be done to eliminate or reduce impediments that currently exist for responding appropriately to child sexual abuse and related matters in institutional contexts, including addressing failures in, and impediments to, reporting, investigating and responding to allegations and incidents of abuse;

d. what institutions and governments should do to address, or alleviate the impact of, past and future child sexual abuse and related matters in institutional contexts, including, in particular, in ensuring justice for victims through the provision of redress by institutions, processes for referral for investigation and prosecution and support services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

e. the experience of people directly or indirectly affected by child sexual abuse and related matters in institutional contexts, and the provision of opportunities for them to share their experiences in appropriate ways while recognising that many of them will be severely traumatised or will have special support needs;

f. the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;

g. the adequacy and appropriateness of the responses by institutions, and their officials, to reports and information about allegations, incidents or risks of child sexual abuse and related matters in institutional contexts;

h. changes to laws, policies, practices and systems that have improved over time the ability of institutions and governments to better protect against and respond to child sexual abuse and related matters in institutional contexts.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you to take (or refrain from taking) any action that you consider appropriate arising out of your consideration:

i. the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;

j. the need to establish investigation units to support your inquiry;

k. the need to ensure that evidence that may be received by you that identifies particular individuals as having been involved in child sexual abuse or related matters is dealt with in a way that does not prejudice current or future criminal or civil proceedings or other contemporaneous inquiries;

l. the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;

m. the need to ensure that institutions and other parties are given a sufficient opportunity to respond to requests and requirements for information, documents and things, including, for example, having regard to any need to obtain archived material.

AND We appoint you, the Honourable Justice Peter David McClellan AM, to be the Chair of the Commission.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

***child*** means a child within the meaning of the Convention on the Rights of the Child of 20 November 1989.

***government*** means the Government of the Commonwealth or of a State or Territory, and includes any non-government institution that undertakes, or has undertaken, activities on behalf of a government.

***institution*** means any public or private body, agency, association, club, institution, organisation or other entity or group of entities of any kind (whether incorporated or unincorporated), and however described, and:

i. includes, for example, an entity or group of entities (including an entity or group of entities that no longer exists) that provides, or has at any time provided, activities, facilities, programs or services of any kind that provide the means through which adults have contact with children, including through their families; and

ii. does not include the family.

***institutional context***: child sexual abuse happens in an ***institutional context*** if, for example:

i. it happens on premises of an institution, where activities of an institution take place, or in connection with the activities of an institution; or

ii. it is engaged in by an official of an institution in circumstances (including circumstances involving settings not directly controlled by the institution) where you consider that the institution has, or its activities have, created, facilitated, increased, or in any way contributed to, (whether by act or omission) the risk of child sexual abuse or the circumstances or conditions giving rise to that risk; or

iii. it happens in any other circumstances where you consider that an institution is, or should be treated as being, responsible for adults having contact with children.

***law*** means a law of the Commonwealth or of a State or Territory.

***official***, of an institution, includes:

i. vi. any representative (however described) of the institution or a related entity; and

ii. vii. any member, officer, employee, associate, contractor or volunteer (however described) of the institution or a related entity; and

iii. viii. any person, or any member, officer, employee, associate, contractor or volunteer (however described) of a body or other entity, who provides services to, or for, the institution or a related entity; and

iv. ix. any other person who you consider is, or should be treated as if the person were, an official of the institution.

***related matters*** means any unlawful or improper treatment of children that is, either generally or in any particular instance, connected or associated with child sexual abuse.

AND We:

require you to begin your inquiry as soon as practicable, and

require you to make your inquiry as expeditiously as possible; and

require you to submit to Our Governor-General:

first and as soon as possible, and in any event not later than 30 June 2014 (or such later date as Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation), an initial report of the results of your inquiry, the recommendations for early consideration you may consider appropriate to make in this initial report, and your recommendation for the date, not later than 31 December 2015, to be fixed for the submission of your final report; and

then and as soon as possible, and in any event not later than the date Our Prime Minister may, by notice in the *Gazette*, fix on your recommendation, your final report of the results of your inquiry and your recommendations; and

authorise you to submit to Our Governor-General any additional interim reports that you consider appropriate.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS Quentin Bryce, Governor-General of the Commonwealth of Australia.

Dated 11th January 2013

Governor-General

By Her Excellency's Command

Prime Minister

## Letters Patent dated 13 November 2014

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO

The Honourable Justice Peter David McClellan AM,
Mr Robert Atkinson,
The Honourable Justice Jennifer Ann Coate,
Mr Robert William Fitzgerald AM,
Dr Helen Mary Milroy, and
Mr Andrew James Marshall Murray

GREETING

WHEREAS We, by Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia, appointed you to be a Commission of inquiry, required and authorised you to inquire into certain matters, and required you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 31 December 2015.

AND it is desired to amend Our Letters Patent to require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 15 December 2017.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, amend the Letters Patent issued to you by omitting from subparagraph (p)(i) of the Letters Patent "31 December 2015" and substituting "15 December 2017".

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia.

Dated 13th November 2014

Governor-General

By Her Excellency's Command

Prime Minister

# APPENDIX B: Public Hearing

| | |
|---|---|
| **The Royal Commission** | Justice Peter McClellan AM (Chair)<br>Justice Jennifer Coate<br>Mr Bob Atkinson AO APM<br>Mr Robert Fitzgerald AM<br>Professor Helen Milroy<br>Mr Andrew Murray |
| **Commissioners who presided** | Justice Jennifer Coate<br>Commissioner Bob Atkinson AO APM<br>Mr Andrew Murray |
| **Date of hearing** | 17–24 February 2014 |
| **Legislation** | *Royal Commissions Act 1902* (Cth) |
| **Leave to appear** | Truth Justice and Healing Council, representing the Roman Catholic Diocese of Toowoomba and the Toowoomba Catholic Education Office<br>Ian Hunter<br>The State of Queensland<br>Christopher Fry<br>Terence Michael Hayes<br>Catherine Leigh Long |
| **Legal representation** | G Furness SC and A Naylor, Counsel Assisting the Royal Commission<br>J Needham SC and Mr Kelleher, Gilbert & Tobin, appearing for the Truth Justice and Healing Council, appearing the Roman Catholic Diocese of Toowoomba and the Toowoomba Catholic Education Office<br>A Hallewell, Hallewell Law, appearing for Ian Hunter<br>D Kent QC and Mr Keyes, appearing for the State of Queensland<br>PM Quinn, Creevey Russell Lawyers, appearing for Christopher Fry<br>D Burns, David Burns Lawyers, appearing for Catherine Leigh Long<br>AE Knott, TressCox Lawyers, appearing for Terence Michael Hayes |

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| **Pages of transcript:** | 677 pages |
| **Notice to Produce issued under *Royal Commissions Act 1902* (Cth) and documents produced:** | 22 notices to produce, producing approximately 17,500 documents |
| **Summons to attend issued under *Royal Commissions Act 1923* (NSW) and documents produced:** | 1 summons to attend, producing approximately 603 documents |
| **Requirements to Produce issued under *Commissions of Inquiry Act 1950 (QLD)* and documents produced:** | 2 requirements to produce, producing approximately 810 documents |
| **Number of exhibits:** | 28 exhibits consisting of a total of 407 documents tendered at the hearing |
| **Witnesses** | Witness KQ, Parent<br>Witness KR, Parent<br>Witness KP, Parent<br>Catherine Long, Student Protection Officer, the Primary School<br>Megan Wagstaff, Assistant Principal Religious Education, the Primary School<br>Terence Hayes, Former Principal, the Primary School<br>Christopher Fry, Senior Education Officer, Toowoomba Diocese CEO<br>Ian Hunter, Senior Education Officer, Toowoomba Diocese CEO<br>John Borserio, Director, Toowoomba Diocese CEO<br>Bill Ahern, Principal<br>Dan McMahon, Principal<br>Margaret Hendriks, Assistant Director, Toowoomba Diocese CEO<br>Professor William Lane, Deputy Chairman, Non-State Schools Accreditation Board of Queensland<br>Most Rev William Morris, Diocese of Toowoomba |

# Endnotes

[1] Transcript of C Long, Case Study 6, at 59: 8; Exhibit 6-3, STAT.0135.001.0001_R at 0002.
[2] Exhibit 6-1, Case Study 6, STAT.0136.001.0001_R at 0002.
[3] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0002; Transcript of T Hayes at 152: 42-47.
[4] Exhibit 6-1, Case Study 6, STAT.0136.001.0001_R at 0002.
[5] Transcript of T Hayes, Case Study 6 at 153: 47; Transcript of T Hayes, Case Study 6 at 154: 15
[6] Transcript of T Hayes, Case Study 6 at 221: 23-27; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0295.
[7] Exhibit 6-2, Case Study 6, CTJH.161.03042.0089_E_R at 0089-0091.
[8] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0003.
[9] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0003-0005; Transcript of KQ, Case Study 6 at 19: 14-21.
[10] Transcript of KQ, Case Study 6 at 21: 25-32.
[11] Transcript of T Hayes, Case Study 6 at 172: 7-10; Transcript of T Hayes, Case Study 6 at 224: 9-11.
[12] Transcript of T Hayes, Case Study 6 at 224: 17-19; Transcript of T Hayes, Case Study 6 at 333: 32-34.
[13] Transcript of T Hayes, Case Study 6 at 333: 38-42.
[14] Transcript of T Hayes, Case Study 6 at 172: 47–173: 2; Transcript of T Hayes, Case Study 6 at 174: 8-12.
[15] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0002.
[16] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0002.
[17] Transcript of M Wagstaff, Case Study 6 at 108: 47-109: 11.
[18] Transcript of M Wagstaff, Case Study 6 at 110: 19-21; Transcript of M Wagstaff, Case Study 6 at 111: 22-24; Transcript of M Wagstaff, Case Study 6 at 141: 29.
[19] Transcript of M Wagstaff, Case Study 6 at 111: 18.
[20] Transcript of C Long, Case Study 6 at 77: 24-25.
[21] Transcript of C Long, Case Study 6 at 77: 27-34.
[22] Exhibit 6-2, Case Study 6, CTJH.161.01027.0023_E_R at 0023.
[23] Exhibit 6-2, Case Study 6, CTJH.161.01027.0020_E_R at 0020.
[24] Exhibit 6-17, Case Study 6, CTJH.500.10001.0001_R at 0005.
[25] Exhibit 6-2, Case Study 6, CTJH.161.01003.0627 at 0627; Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0005.
[26] Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0004.
[27] Exhibit 6-2, Case Study 6, CTJH.161.05001.0001_R at 0083.
[28] Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0010; Transcript of W Morris, Case Study 6 at 647: 47 – 648: 3; Exhibit 6-2, Case Study 6, CTJH.161.01016.0027_R at 0027-0028; Exhibit 6-2, Case Study 6, CTJH.161.01016.0022_R at 0022-0024; Exhibit 6-2, Case Study 6, CTJH.161.01016.0025_R at 0025-0026.
[29] Exhibit 6-2, Case Study 6, CTJH.161.01014.0153_R at 0160-0163.
[30] Exhibit 6-2, Case Study 6, CTJH.161.01015.0037 at 0055.
[31] Exhibit 6-2, Case Study 6, CTJH.161.01015.0037 at 0055.
[32] Section 10 of the *Education (Accreditation of Non-State Schools) Act 2001* (Qld) (Accreditation Act) made it an offence to operate a non-State school without accreditation.
[33] The Board was established under section 105 of the Accreditation Act and its functions under section 106 included assessing applications for accreditation of schools, accrediting schools complying with the accreditation criteria, and monitoring whether accredited schools continue to comply with the accreditation criteria.

[34] Transcript of W Lane, Case Study 6 at 415: 41 – 43; Transcript of W Lane, Case Study 6 at 417: 12 – 28.
[35] Transcript of W Morris, Case Study 6 at 644: 37 – 645: 15.
[36] Transcript of J Borserio, Case Study 6 at 489: 17-20.
[37] Transcript of W Lane, Case Study 6 at 434: 27-30; Transcript of W Lane, Case Study 6 at 435: 8-28; Transcript of W Lane, Case Study 6 at 436: 40-43.
[38] Exhibit 6-2, Case Study 6 at CTJH.161.03007.0210_R at 0213.
[39] Exhibit 6-2, Case Study 6 at CTJH.161.01030.0003_R at 0003.
[40] Transcript of C Long, Case Study 6, at 59: 8; Exhibit 6-3, STAT.0135.001.0001_R at 0002.
[41] Exhibit 6-17, Case Study 6, CTJH.500.10001.0001_R at 0002-0004.
[42] Exhibit 6-1, Case Study 6, STAT.0136.001.0001_R at 0002.
[43] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0002; Transcript of T Hayes at 152: 42-47.
[44] Exhibit 6-1, Case Study 6, STAT.0136.001.0001_R at 0002.
[45] Section 366 was in the same terms as section 146B of the *Education (General Provisions) Act 1989* (Qld) immediately before that Act was repealed on 30 October 2006. Section 146B was intended to overcome a problem of complaints of sexual abuse being dismissed or ignored by school authorities, by mandating the reporting of complaints of sexual abuse of students to police.
[46] Section 68(b), *Education (General Provisions) Regulation 2006* (Qld).
[47] Section 68(d), *Education (General Provisions) Regulation 2006* (Qld).
[48] Section 68(e)(ii), *Education (General Provisions) Regulation 2006* (Qld).
[49] Relevant portions of the Student Protection Kit form part of Exhibit 6-2, Case Study 6 at CTJH.161.03059.0261.
[50] Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0281.
[51] Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0296.
[52] Transcript of T Hayes, Case Study 6 at 153: 47; Transcript of T Hayes, Case Study 6 at 154: 15
[53] Transcript of T Hayes, Case Study 6 at 221: 23-27; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0295.
[54] Exhibit 6-2, Case Study 6, CTJH.161.03042.0089_E_R at 0089-0091.
[55] Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0295.
[56] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0002.
[57] Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0003; Exhibit 6-5, Case Study 6, STAT. 0134.001.0001_R at 0002.
[58] Transcript of T Hayes, Case Study 6 at 154: 42-44.
[59] Transcript of T Hayes, Case Study 6 at 154: 46-157: 3.
[60] Transcript of C Long, Case Study 6 at 64: 5-6.
[61] Transcript of C Long, Case Study 6 at 64: 15-29.
[62] Transcript of C Long, Case Study 6 at 68: 10-13.
[63] Transcript of C Long, Case Study 6 at 101: 18.
[64] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0002.
[65] Transcript of T Hayes, Case Study 6 at 155: 32-39.
[66] Transcript of T Hayes, Case Study 6 at 156: 19-30; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0295.
[67] Transcript of T Hayes, Case Study 6 at 156: 33; Transcript of T Hayes, Case Study 6 at 157: 24-27.
[68] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0002.
[69] Transcript of C Fry, Case Study 6 at 335: 40-47.
[70] Transcript of C Fry, Case Study 6 at 336: 10-23.
[71] Exhibit 6-5, Case Study 6, STAT. 0134.001.0001_R at 0002; Transcript of T Hayes, Case Study 6 at 158: 2-19.
[72] Exhibit 6-5, Case Study 6, STAT. 0134.001.0001_R at 0002; Transcript of T Hayes, Case Study 6 at 158: 44–159: 3.
[73] Transcript of T Hayes, Case Study 6 at 159: 10-17.

[74] Transcript of T Hayes, Case Study 6 at 159: 19-35; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0295.
[75] Transcript of T Hayes, Case Study 6 at 159: 38; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0295.
[76] Transcript of T Hayes, Case Study 6 at 160: 6-14.
[77] Transcript of T Hayes, Case Study 6 at 302: 14-18.
[78] Transcript of T Hayes, Case Study 6 at 302: 17-18.
[79] Transcript of T Hayes, Case Study 6 at 302: 29-31.
[80] Transcript of T Hayes, Case Study 6 at 305: 39.
[81] Transcript of T Hayes, Case Study 6 at 160: 27-29.
[82] Transcript of T Hayes, Case Study 6 at 160: 44.
[83] Exhibit 6-26, Case Study 6, STAT.0132.001.0001_R at 0002.
[84]Exhibit 6-26, Case Study 6, STAT.0132.001.0001_R at 0002.
[85] Exhibit 6-2, Case Study 6, CTJH.161.03042.0089_E_R at 0089-0091.
[86] Exhibit 6-26, Case Study 6, STAT.0132.001.0001_R at 0002.
[87] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0003.
[88] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0003-0005; Transcript of KQ, Case Study 6 at 19: 14-21.
[89] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0003-0005.
[90] Transcript of T Hayes, Case Study 6 at 162: 4-7; Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0003-0005.
[91] Transcript of T Hayes, Case Study 6 at 162: 9-11; Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0003-0004; Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0003-0005; Transcript of KQ, Case Study 6 at 19: 38-40.
[92] Transcript of KQ, Case Study 6 at 19: 43-45.
[93] Transcript of C Long, Case Study 6 at 65: 34; Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0004-0005; Exhibit 6-2, Case Study 6, QLD.9210.01006.0077_R at 0077.
[94] Long T65: 34; Ex 6.3 Long, [19]; Ex 6-2, Tab 6/QLD.9210.01006.0077_R.
[95] Transcript of T Hayes, Case Study 6 at 222: 18-20.
[96] Transcript of T Hayes, Case Study 6 at 222: 22-24.
[97] Transcript of T Hayes, Case Study 6 at 242: 47.
[98] Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0005.
[99] Transcript of T Hayes, Case Study 6 at 165: 8-9.
[100] Transcript of T Hayes, Case Study 6 at 165: 39-40.
[101] Transcript of T Hayes, Case Study 6 at 243: 35-41.
[102] Transcript of T Hayes, Case Study 6 at 243: 43-46.
[103] Transcript of T Hayes, Case Study 6 at 244: 13-16.
[104] Transcript of C Long, Case Study 6 at 101: 47-102: 6.
[105] Transcript of T Hayes, Case Study 6 at 222: 2-12.
[106]Transcript of T Hayes, Case Study 6 at 65: 39.
[107] Transcript of T Hayes, Case Study 6 at 167: 17-24; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0295.
[108] Transcript of T Hayes, Case Study 6 at 167: 26-27.
[109] Transcript of C Long, Case Study 6 at 72: 33-36.
[110] Transcript of C Long, Case Study 6 at 71: 13-14.
[111] Transcript of C Long, Case Study 6 at 71: 29-44.
[112] Transcript of C Long, Case Study 6 at 102: 11-12.
[113] Transcript of KQ, Case Study 6 at 19: 47-20: 2.
[114] Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0005.
[115]Transcript of KQ, Case Study 6 at 20: 17-22.
[116] Transcript of KQ, Case Study 6 at 21: 2-23.

[117] Transcript of KQ, Case Study 6 at 21: 13-15.
[118] Transcript of KQ, Case Study 6 at 21: 15-18.
[119] Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0005; Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0005.
[120] Transcript of KQ, Case Study 6 at 20: 47-21: 2.
[121] Transcript of KQ, Case Study 6 at 21: 4-8.
[122] Transcript of KQ, Case Study 6 at 20: 43-44.
[123] Transcript of KQ, Case Study 6 at 20: 31-35.
[124] Transcript of KQ, Case Study 6 at 20: 37-39.
[125] Transcript of KQ, Case Study 6 at 20: 39-41.
[126] Transcript of KQ, Case Study 6 at 21: 25-32.
[127] Transcript of C Long, Case Study 6 at 103: 32-34.
[128] Transcript of KQ, Case Study 6 at 20: 44-46.
[129] Transcript of T Hayes, Case Study 6 at 103: 32-36; Transcript of C Long, Case Study 6 at 103: 34-36.
[130] Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0006.
[131] One version appears at Exhibit 6-2, Case Study 6, CTJH.161.01002.0004_E_R at 0004. The second version appears at Exhibit 6-2, Case Study 6, CTJH.161.030006.0070_R at 0075. The differences between the two versions are immaterial. The version adopted by Ms Long at the public hearing is Exhibit 6-2, Case Study 6, CTJH.161.01002.0004_E_R at 0004.
[132] Transcript of T Hayes, Case Study 6 at 163: 1.
[133] Transcript of T Hayes, Case Study 6 at 164: 44-47; Transcript of T Hayes, Case Study 6 at 165: 1-2.
[134] Transcript of T Hayes, Case Study 6 at 165: 34-35.
[135] Transcript of T Hayes, Case Study 6 at 222: 33-35.
[136] Transcript of T Hayes, Case Study 6 at 222: 37-40.
[137] Transcript of C Long, Case Study 6 at 74: 43-46.
[138] Transcript of C Long, Case Study 6 at 69: 11-16.
[139] Transcript of C Long, Case Study 6 at 92: 3-11.
[140] Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0005-0006.
[141] Transcript of C Long, Case Study 6 at 71: 27.
[142] Transcript of C Long, Case Study 6 at 100: 7-13.
[143] Transcript of C Long, Case Study 6 at 99: 39-46.
[144] Transcript of C Long, Case Study 6 at 99: 21.
[145] Transcript of T Hayes, Case Study 6 at 163: 11-14.
[146] Transcript of T Hayes, Case Study 6 at 286: 27-29.
[147] Transcript of T Hayes, Case Study 6 at 163: 27-30.
[148] Transcript of T Hayes, Case Study 6 at 223: 9-13; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0292-0298.
[149] Transcript of T Hayes, Case Study 6 at 291: 6-7.
[150] Transcript of T Hayes, Case Study 6 at 147: 11.
[151] Transcript of T Hayes, Case Study 6 at 146: 45-147: 5.
[152] Transcript of T Hayes, Case Study 6 at 152: 30.
[153] Transcript of T Hayes, Case Study 6 at 152: 32-36.
[154] Transcript of T Hayes, Case Study 6 at 163: 36.
[155] Transcript of T Hayes, Case Study 6 at 163: 42-43.
[156] Transcript of T Hayes, Case Study 6 at 270: 38-271: 12.
[157] Transcript of T Hayes, Case Study 6 at 265: 21.
[158] Exhibit 6-15, Case Study 6, STAT.0164.001.0001 at 0001-0002; Transcript of B Ahern, Case Study 6 at 554: 29-31.
[159] Exhibit 6-15, Case Study 6, STAT.0164.001.0001 at 0001.
[160] Transcript of B Ahern, Case Study 6 at 554: 2-6; Transcript of B Ahern, Case Study 6 at 554: 29-31.
[161] Exhibit 6-15, Case Study 6, STAT.0164.001.0001 at 0002.

[162] Exhibit 6-16, Case Study 6, STAT.0165.001.0001_R at 0001.
[163] Transcript of D McMahon, Case Study 6 at 565: 31-34.
[164] Transcript of D McMahon, Case Study 6 at 566: 25-26.
[165] Transcript of D McMahon, Case Study 6 at 567: 41-43.
[166] Transcript of D McMahon, Case Study 6 at 568: 30 -33.
[167] Transcript of I Hunter, Case Study 6 at 452: 43-46.
[168] Transcript of I Hunter, Case Study 6 at 453: 22-24; Transcript of I Hunter, Case Study 6 at 456: 22-23.
[169] Transcript of I Hunter, Case Study 6 at 453: 1-7; Transcript of I Hunter, Case Study 6 at 453: 26-27; Transcript of I Hunter, Case Study 6 at 456: 22-23.
[170] Transcript of I Hunter, Case Study 6 at 456: 25-29.
[171] Transcript of I Hunter, Case Study 6 at 456: 31-33.
[172] Transcript of I Hunter, Case Study 6 at 453: 10-13.
[173] Transcript of I Hunter, Case Study 6 at 453: 16-20.
[174] Transcript of J Borserio, Case Study 6 at 529: 43-530: 15.
[175] Transcript of C Fry, Case Study 6 at 379: 32; Transcript of C Fry, Case Study 6 at 379: 40-43.
[176] Transcript of T Hayes, Case Study 6 at 265: 32-38.
[177] Transcript of T Hayes, Case Study 6 at 289: 18-19; Transcript of T Hayes, Case Study 6 at 289: 32-34.
[178] Transcript of T Hayes, Case Study 6 at 169: 8.
[179] Transcript of T Hayes, Case Study 6 at 168: 43-169: 4.
[180] Transcript of T Hayes, Case Study 6 at 291: 14-18.
[181] Transcript of T Hayes, Case Study 6 at 292: 5-12.
[182] Exhibit 6-17, Case Study 6, CTJH.500.100001.0816 at 0816.
[183] Transcript of T Hayes, Case Study 6 at 270: 19-23.
[184] Transcript of T Hayes, Case Study 6 at 266: 8-11.
[185] Transcript of T Hayes, Case Study 6 at 269: 38-45.
[186] Transcript of T Hayes, Case Study 6 at 277: 19-278: 12.
[187]Transcript of T Hayes, Case Study 6 at 332: 44-333: 26.
[188] Exhibit 6-3, Case Study 6, STAT.0135.001.0001_R at 0006.
[189] Transcript of C Long, Case Study 6 at 92: 39-40.
[190] Transcript of C Long, Case Study 6 at 94: 7-9.
[191] Transcript of T Hayes, Case Study 6 at 223: 22-23.
[192] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0005-0007.
[193] Transcript of T Hayes, Case Study 6 at 170: 21-22.
[194] Transcript of T Hayes, Case Study 6 at 170: 24-25.
[195] Transcript of T Hayes, Case Study 6 at 170: 24-29.
[196] Transcript of C Fry, Case Study 6 at 336: 33-35.
[197] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0005-0007.
[198] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0005-0007.
[199] Transcript of T Hayes, Case Study 6 at 171: 35.
[200] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0007.
[201] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0010.
[202] Exhibit 6-11, Case Study 6, STAT. 0139.001.0001_R at 0006.
[203] Exhibit 6-11, Case Study 6, STAT. 0139.001.0001_R at 0006-0007.
[204] Exhibit 6-11, Case Study 6, STAT. 0139.001.0001_R at 0011.
[205] Transcript of I Hunter, Case Study 6 at 466: 41- 467: 21.
[206] Transcript of T Hayes, Case Study 6 at 170: 41; Transcript of T Hayes, Case Study 6 at 223: 33-34..
[207] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0005-0007.
[208] Exhibit 6-5, Case Study 6, STAT. 0134.001.0001_R at 0005-0007.
[209] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0005-0007.

[210] Exhibit 6-5, Case Study 6, STAT. 0134.001.0001_R at 0005-000.
[211]Transcript of T Hayes, Case Study 6 at 172: 2-5.
[212] Exhibit 6-2, Case Study 6, STAT.0139.001.0117 at 0017. A typewritten version of the note appears at Exhibit 6-2, Case Study 6, CTJH.161.01002.0002_E at 0002.
[213] Exhibit 6-8, Case Study 6, STAT.0145.001.0001_R at 0007-0009.
[214] Transcript of T Hayes, Case Study 6 at 172: 7-10; Transcript of T Hayes, Case Study 6 at 224: 9-11.
[215] Transcript of T Hayes, Case Study 6 at 224: 17-19; Transcript of T Hayes, Case Study 6 at 333: 32-34.
[216] Transcript of T Hayes, Case Study 6 at 333: 38-42.
[217] Transcript of T Hayes, Case Study 6 at 334: 406.
[218] Transcript of T Hayes, Case Study 6 at 172: 32.
[219] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0031.
[220] Transcript of C Fry, Case Study 6 at 338: 1.
[221] Transcript of C Fry, Case Study 6 at 338: 7.
[222] Transcript of C Fry, Case Study 6 at 338: 8-9.
[223] Transcript of C Hayes, Case Study 6 at 172: 42.
[224] Transcript of C Fry, Case Study 6 at 338: 24-28; Transcript of C Fry, Case Study 6 at 339: 2-4.
[225] Transcript of C Fry, Case Study 6 at 338: 42.
[226] Transcript of C Fry, Case Study 6 at 338: 45-47.
[227] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0033.
[228] Transcript of T Hayes, Case Study 6 at 174.36-40.
[229] Transcript of T Hayes, Case Study 6 at 202: 26-30.
[230] Transcript of T Hayes, Case Study 6 at 174: 43; Transcript of T Hayes, Case Study 6 at 224: 25-27.
[231] Transcript of T Hayes, Case Study 6 at 224: 29-30.
[232] Transcript of T Hayes, Case Study 6 at 177: 25; Transcript of T Hayes, Case Study 6 at 178: 4-27.
[233] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0034.
[234] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0034-0035; Exhibit 6-2, Case Study 6, CTJH.161.03059.0261 at 0304-0305.
[235] Exhibit 6-8, Case Study 6, STAT.0145.001.0001_R at 0010.
[236] Transcript of C Fry, Case Study 6 at 340: 8-341: 26.
[237] Transcript of C Fry, Case Study 6 at 341: 28-31.
[238] Transcript of T Hayes, Case Study 6 at 172: 47–173: 2; Transcript of T Hayes, Case Study 6 at 174: 8-12.
[239] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0036.
[240] Transcript of T Hayes, Case Study 6 at 203: 23-26.
[241] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0002.
[242] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0002.
[243] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0003.
[244] Transcript of M Wagstaff, Case Study 6 at 108: 47-109: 11.
[245] Transcript of M Wagstaff, Case Study 6 at 110: 19-21; Transcript of M Wagstaff, Case Study 6 at 111: 22-24; Transcript of M Wagstaff, Case Study 6 at 141: 29.
[246] Transcript of M Wagstaff, Case Study 6 at 111: 18.
[247] Transcript of M Wagstaff, Case Study 6 at 115: 47-116: 22.
[248] Transcript of M Wagstaff, Case Study 6 at 116: 2-6.
[249] Transcript of M Wagstaff, Case Study 6 at 116: 33-43.
[250] Transcript of M Wagstaff, Case Study 6 at 117: 25-26.
[251] Transcript of M Wagstaff, Case Study 6 at 117: 32-33.
[252] Transcript of M Wagstaff, Case Study 6 at 118: 39.
[253] Transcript of M Wagstaff, Case Study 6 at 118: 35.
[254] Transcript of T Hayes, Case Study 6 at 149: 22-23.
[255] Transcript of M Wagstaff, Case Study 6 at 117: 39-43.

[256] Transcript of M Wagstaff, Case Study 6 at 121: 42-44.
[257] Transcript of M Wagstaff, Case Study 6 at 119: 27-29.
[258] Transcript of M Wagstaff, Case Study 6 at 119: 25; Transcript of M Wagstaff, Case Study 6 at 122: 6.
[259] Transcript of C Long, Case Study 6 at 76: 2-5; Long T89: 5-11.
[260] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0003.
[261] Transcript of C Long, Case Study 6 at 77: 24-25.
[262] Transcript of C Long, Case Study 6 at 77: 27-34.
[263] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0003.
[264] Transcript of C Fry, Case Study 6 at 392: 22-30; Transcript of C Fry, Case Study 6 at 392: 44-45.
[265] Exhibit 6-4, Case Study 6, STAT.0131.001.0001_R at 0003.
[266] Transcript of T Hayes, Case Study 6 at 311: 44 – 312: 2.
[267] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0007-0008.
[268] Transcript of T Hayes, Case Study 6 at 146: 5-27.
[269] Transcript of T Hayes, Case Study 6 at 314: 12-24; Transcript of T Hayes, Case Study 6 at 314:46 – 315: 5.
[270] Transcript of T Hayes, Case Study 6 at 315: 20-32.
[271] Transcript of T Hayes, Case Study 6 at 222: 42-223: 1.
[272] Exhibit 6-2, Case Study 6, STAT.0134.001.0021_E_R at 0021-0023; Exhibit 6-8, Case Study 6, STAT.0145.001.0001_R at 0011.
[273] Transcript of C Fry, Case Study 6 at 351: 44-352: 4; Transcript of C Fry, Case Study 6 at 352: 34.
[274] Transcript of C Fry, Case Study 6 at 352: 25-34.
[275] Transcript of C Fry, Case Study 6 at 352: 41.
[276] Transcript of T Hayes, Case Study 6 at 179: 36-45.
[277] Transcript of T Hayes, Case Study 6 at 180: 39.
[278] Transcript of T Hayes, Case Study 6 at 180: 27-28; Transcript of T Hayes, Case Study 6 at 180: 47.
[279] Transcript of T Hayes, Case Study 6 at 180: 43.
[280] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0037.
[281] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0038.
[282] Exhibit 6-2, Case Study 6, STAT.0134.001.0025_E_R at 0027.
[283] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0009-0010; Exhibit 6-8, Case Study 6, STAT.0145.001.0001_R at 0012; Transcript of T Hayes, Case Study 6 at 183: 19-21.
[284] Transcript of T Hayes, Case Study 6 at 183: 32-39.
[285] Transcript of C Fry, Case Study 6 at 353: 3.
[286] Exhibit 6-8, Case Study 6, STAT.0145.001.0001_R at 0013.
[287] Transcript of C Fry, Case Study 6 at 353: 11-13.
[288] Transcript of C Fry, Case Study 6 at 353: 25-30.
[289] Transcript of T Hayes, Case Study 6 at 183: 33-43.
[290] Transcript of I Hunter, Case Study 6 at 477: 1-3.
[291] Transcript of T Hayes, Case Study 6 at 227: 7-11.
[292] Transcript of C Fry, Case Study 6 at 354: 22.
[293] Transcript of T Hayes, Case Study 6 at 225: 2-24.
[294] Transcript of T Hayes, Case Study 6 at 212: 25-27.
[295] Transcript of T Hayes, Case Study 6 at 227: 28-31.
[296] Transcript of T Hayes, Case Study 6 at 334: 19-23.
[297] Transcript of C Fry, Case Study 6 at 356: 35 – 357: 15.
[298] Transcript of C Fry, Case Study 6 at 395: 22-32.
[299] Transcript of C Fry, Case Study 6 at 395: 37; Transcript of C Fry, Case Study 6 at 398: 3-6.
[300] Transcript of C Fry, Case Study 6 at 357: 27-34.
[301] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0038.
[302] Transcript of I Hunter, Case Study 6 at 465: 2-5.

[303] Transcript of I Hunter, Case Study 6 at 469: 19-22; Transcript of I Hunter, Case Study 6 at 469: 45 – 470: 5.
[304] Transcript of I Hunter, Case Study 6 at 472: 23-25; Transcript of I Hunter, Case Study 6 at 469: 45-470: 5
[305] Exhibit 6-2, Case Study 6, STAT.0134.001.0035_E_R at 0035 – 0042.
[306] Exhibit 6-2, Case Study 6, STAT.0134.001.0035_E_R at 0041.
[307] Transcript of T Hayes, Case Study 6 at 225: 15-18.
[308] Transcript of T Hayes, Case Study 6 at 225: 20-24.
[309] Transcript of T Hayes, Case Study 6 at 225: 26-27.
[310] Transcript of T Hayes, Case Study 6 at 225: 42-47.
[311] Transcript of T Hayes, Case Study 6 at 226: 2-4.
[312] Transcript of T Hayes, Case Study 6 at 226: 1 3-18.
[313] Exhibit 6-8, Case Study 6, STAT.0145.001.0001_R at 0014.
[314] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0039.
[315] Transcript of I Hunter, Case Study 6 at 476: 24-29.
[316] Exhibit 6-8, Case Study 6, STAT.0145.001.0001_R at 0014.
[317] Transcript of C Fry, Case Study 6 at 355: 20-23.
[318] Transcript of C Fry, Case Study 6 at 356: 13-14.
[319] Exhibit 6-11, Case Study 6, STAT.0139.001.0001_R at 0039.
[320] Transcript of I Hunter, Case Study 6 at 467: 45-468: 18.
[321] Transcript of I Hunter, Case Study 6 at 473: 3-12.
[322] Exhibit 6-2, Case Study 6, STAT.0134.001.0035_E_R at 0039.
[323] Exhibit 6-5, Case Study 6, STAT.0134.001.0001_R at 0010-0011.
[324] Exhibit 6-2, Case Study 6, CTJH.161.01001.0003_R at 0003-0005.
[325] Transcript of T Hayes, Case Study 6 at 188: 6-7; Transcript of T Hayes, Case Study 6 at 189: 7.
[326] Transcript of C Fry, Case Study 6 at 358: 37-46.
[327] Transcript of T Hayes, Case Study 6 at 229: 2-8.
[328] Transcript of T Hayes, Case Study 6 at 188: 12-13.
[329] Transcript of T Hayes, Case Study 6 at 189: 13-15; Transcript of T Hayes, Case Study 6 at T189: 21-25.
[330] Transcript of T Hayes, Case Study 6 at 190: 11-12.
[331] Transcript of C Long, Case Study 6 at 87: 6-8.
[332] Transcript of M Wagstaff, Case Study 6 at 123: 36-46.
[333] Transcript of C Hayes, Case Study 6 at 229: 19-24.
[334] Transcript of T Hayes, Case Study 6 at 191: 31-33.
[335] Transcript of T Hayes, Case Study 6 at 191: 38-43.
[336]Transcript of C Fry, Case Study 6 at 359: 38-40.
[337] Transcript of C Fry, Case Study 6 at 359: 40-41.
[338] Transcript of C Fry, Case Study 6 at 360: 1-8.
[339] Exhibit 6-2, Case Study 6, CTJH.161.01033.0025_E_R at 0025-0027.
[340] Exhibit 6-2, Case Study 6, CTJH.161.01003.0417_R at 0417; Exhibit 6-2, Case Study 6, CTJH.161.01032.0368_E_R at 0368.
[341] Exhibit 6-2, Case Study 6, CTJH.161.01027.0023_E_R at 0023.
[342] Exhibit 6-2, Case Study 6, CTJH.161.01027.0020_E_R at 0020.
[343] Transcript of M Hendriks, Case Study 6 at 585: 27-32.
[344] Transcript of M Hendriks, Case Study 6 at 584: 32.
[345] Transcript of M Hendriks, Case Study 6 at 584: 33-35.
[346] Transcript of M Hendriks, Case Study 6, 585: 16-18.
[347] Transcript of M Hendriks, Case Study 6 at 588: 20-25.
[348] Transcript of M Hendriks, Case Study 6 at 585: 45; Transcript of M Hendriks, Case Study 6 at 588: 27-29.

[349] Exhibit 6-17, Case Study 6, CTJH.500.10001.0001_R at 0005.
[350] Transcript of T Hayes, Case Study 6 at 192: 43 – 193: 2.
[351] Transcript of T Hayes, Case Study 6 at 192: 43 – 193: 2.
[352] Transcript of T Hayes, Case Study 6 at 193: 8-13; Transcript of T Hayes, Case Study 6 at 193: 39-47.
[353] Transcript of T Hayes, Case Study 6 at 194: 11-15.
[354] Transcript of T Hayes, Case Study 6 at 229: 30-33.
[355] Transcript of T Hayes, Case Study 6 at 195: 10-15.
[356] Transcript of T Hayes, Case Study 6 at 229: 35 – 230: 8.
[357] Transcript of T Hayes, Case Study 6 at 230: 10-12.
[358] Transcript of M Hendriks, Case Study 6 at 583: 36-37.
[359] Transcript of M Hendriks, Case Study 6 at 586: 6-8.
[360] Transcript of M Hendriks, Case Study 6 at 586: 34-44.
[361] Transcript of M Hendriks, Case Study 6 at 586: 46 – 587: 1.
[362] Exhibit 6-3, Case Study 6, STAT.0135.0135.001.0001_R at 0008-0009.
[363] Exhibit 6-2, Case Study 6, QLD.9310.01001.0647_E_R at 0647-0661.
[364] Exhibit 6-1, Case Study 6, STAT.0133.001.0001_R at 0001-0002.
[365] Exhibit 6-1, Case Study 6, STAT. 0133.001.0001_R at 0003.
[366] Exhibit 6-1, Case Study 6, STAT. 0133.001.0001_R at 0004.
[367] Exhibit 6-2, Case Study 6, QLD.9310.01001.0648_E_R at 0648.
[368] Exhibit 6-2, Case Study 6, QLD.9310.01001.0648_E_R at 0648; Exhibit 6-2, Case Study 6, QLD.9310.01001.0536_E_R at 0530.
[369] Transcript of T Hayes, Case Study 6 at 299: 5-9.
[370] Transcript of T Hayes, Case Study 6 at 299: 15-25.
[371] Transcript of T Hayes, Case Study 6 at 299: 15–300: 6.
[372] Transcript of T Hayes, Case Study 6 at 300: 40.
[373] Transcript of J Borserio, Case Study 6 at 504: 3-7.
[374] Transcript of T Hayes, Case Study 6 at 300: 42 –301: 25.
[375] Exhibit 6-12, Case Study 6, CTJH.500.09001.0001_R at 0011.
[376] Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0004.
[377] Exhibit 6-2, Case Study 6, CTJH.161.01003.0627 at 0627; Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0005.
[378] Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0004.
[379] Exhibit 6-2, Case Study 6, CTJH.161.05001.0001_R at 0083.
[380] Exhibit 6-2, Case Study 6, CTJH.161.01014.0153_R at 0160-0163.
[381] Exhibit 6-2, Case Study 6, CTJH.161.01015.0037 at 0055.
[382] Exhibit 6-2, Case Study 6, CTJH.161.01015.0037 at 0055.
[383] Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0010; Transcript of W Morris, Case Study 6 at 647: 47 – 648: 3; Exhibit 6-2, Case Study 6, CTJH.161.01016.0027_R at 0027-0028; Exhibit 6-2, Case Study 6, CTJH.161.01016.0022_R at 0022-0024; Exhibit 6-2, Case Study 6, CTJH.161.01016.0025_R at 0025-0026.
[384] Transcript of J Borserio, Case Study 6 at 513: 5.
[385] Transcript of J Borserio, Case Study 6 at 512: 44.
[386] Transcript of C Fry, Case Study 6 at 396: 6 – 398:31; Transcript of C Fry, Case Study 6 at 411: 22-24; Transcript of I Hunter, Case Study 6 at 455: 2-24.
[387] Exhibit 6-17, Case Study 6, CTJH.500.10001.0001_R at 0008.
[388] Exhibit 6-2, Case Study 6, QLD.9310.01001.0536_E_R at 0534-0535.
[389] Exhibit 6-2, Case Study 6, CTJH.161.01015.0035_E_R at 0035-0090.
[390] Section 366(2A), *Education (General Provisions) Act 2006* (Qld). The *Education and Training Legislation Amendment Act 2011* also inserted an additional provision into the 2006 Act, section 366A, which commenced on 29 January 2013 and relates to the obligation to report 'likely' sexual abuse of a person aged under 18 years at a non-State school.

[391] Exhibit 6-2, Case Study 6, CTJH.161.01034.0002_R at 0002-0003.
[392] Transcript of W Morris, Case Study 6 at 652: 34-40.
[393] Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0013.
[394] Exhibit 6-19, Case Study 6, STAT.0129.001.0001_R at 0013; Transcript of W Morris, Case Study 6 at 652: 34-40.
[395] Transcript of KR, Case Study 6 at 31: 32 – 32: 22.
[396] Transcript of W Morris, Case Study 6 at 637: 29.
[397] Section 10 of the *Education (Accreditation of Non-State Schools) Act 2001* (Qld) (Accreditation Act) made it an offence to operate a non-State school without accreditation.
[398] The Board was established under section 105 of the Accreditation Act and its functions under section 106 included assessing applications for accreditation of schools, accrediting schools complying with the accreditation criteria, and monitoring whether accredited schools continue to comply with the accreditation criteria.
[399] Sub-section 63(1)(d), 67(3), Accreditation Act; Exhibit 6-9, Case Study 6, STAT.0159.001.0001_R at 0002.
[400] Exhibit 6-9, Case Study 6, STAT.0159.001.0001_R at 0003.
[401] Exhibit 6-9, Case Study 6, STAT.0159.001.0011_R at 0004.
[402] Transcript of W Lane, Case Study 6 at 415: 41 – 43; Transcript of W Lane, Case Study 6 at 417: 12 – 28.
[403] Exhibit 6-10, Case Study 6, STAT.0146.001.0082 at 0082-0084.
[404] Exhibit 6-10, Case Study 6, STAT.0146.001.0096 at 0098.
[405] Exhibit 6-10, Case Study 6, STAT.0146.001.0096 at 0098; Transcript of W Lane, Case Study 6 at 423: 12 – 43.
[406] Exhibit 6-10, Case Study 6, STAT.0146.001.0096 at 0098; Transcript of W Lane, Case Study 6 at 423: 12 – 43.
[407] Exhibit 6-9, Case Study 6, STAT.0159.001.0146 at 0146.
[408] Exhibit 6-9, Case Study 6, STAT.0159.001.0001_R at 0005.
[409] Exhibit 6-9, Case Study 6, STAT.0159.001.0001_R at 0005.
[410] Exhibit 6-9, Case Study 6, STAT.0159.001.0001_R at 0005.
[411] Exhibit 6-10, Case Study 6, STAT.0146.001.0001 at 0002.
[412] Transcript of W Lane, Case Study 6 at 418: 22-35.
[413] Exhibit 6-10, Case Study 6, STAT.0146.001.0082 at 0082.
[414] Transcript of W Lane, Case Study 6 at 419: 35-37.
[415] Transcript of W Lane, Case Study 6 at 420: 22.
[416] Transcript of W Lane, Case Study 6 at 421: 10 -22: 4; Transcript of W Lane, Case Study 6 at 424: 7 – 29; Transcript of W Lane, Case Study 6 at 425:10 – 29.
[417] Transcript of W Morris, Case Study 6 at 644: 37 – 645: 15.
[418] Transcript of J Borserio, Case Study 6 at 489: 17-20.
[419] Exhibit 6-9, Case Study 6, STAT.0159.001.0161 at 0161-0162.
[420] Exhibit 6-9, Case Study 6, STAT.0159.001.0474 at 0474.
[421] Exhibit 6-9, Case Study 6, STAT.0159.001.0756_R at 0758.
[422] Exhibit 6-9, Case Study 6, Lane, STAT.0159.001.0752_R at 0752-0755.
[423] Exhibit 6-9, Case Study 6, STAT.0159.001.0001_R at 0009.
[424] Transcript of W Lane, Case Study 6 at 427: 43 – 428: 22.

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Commonwealth of Australia

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ISBN 978-1-925289-04-6
Published January 2015