

John Cleary

From: Bishop Brian
Sent: Tuesday, 24 August 2010 8:45 AM
To: John Cleary
Subject: FW: FOR THE EYES OF THE BISHOP ONLY

Importance: High

Dear John,

This is the email. It is strictly confidential. I want to speak with you and Bishop Peter about it.

Grace and peace,

+Brian

Dr Brian Farran Diocesan Bishop **Anglican Diocese of Newcastle**

PO Box 817 Newcastle NSW 2300 general 02 4926 3733 fax 02 4926 1968
 direct **REDACTED** e-mail bishop@angdon.com web www.angdon.com

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From: Amanda Zaicos
Sent: Monday, 23 August 2010 9:10 AM
To: Bishop Brian
Subject: FW: FOR THE EYES OF THE BISHOP ONLY

Dear Bishop - Hard copy also printed for you.

Amanda Zaicos Bishop's Secretary **Anglican Diocese of Newcastle**

From: Paul Rosser [mailto:**REDACTED**]
Sent: Saturday, 21 August 2010 1:33 PM
To: Bishop Secretary
Subject: FOR THE EYES OF THE BISHOP ONLY

My Dear Bishop

As you are aware I have, from time to time, expressed concerns about certain aspects of the operation of our professional standards regime. I have, in particular, expressed concerns as to the need for oversight of the operations of the Director and the Committee. As the Ordinance stands, only you can exercise that oversight.

I regret that it has been my clear perception that you have not regarded my concerns as serious and that the advice that I have offered as to effective oversight has been unwelcome. I fully understand your determination that the Professional Standards process be seen to be entirely independent of yourself. It has appeared to me that you have been prepared to accept uncritically what has been placed before you by the Director and the Committee and that, for practical purposes, the Director has been allowed free rein.

One consequence of this has been the appalling waste of money on detailed investigations and reports that were not required by the Ordinance and the inordinate delay thereby occasioned..As you are aware, there is a startling disparity between what the Director told the private meeting and what the Diocesan Council was told later that same day as to the Director's role in commissioning these investigations.A further matter of which you are aware is that the Director has purported to exercise powers of direction under the Ordinance that he does not possess and to justify this to you as 'bluffing'. (This last is part of the background to my Notice of motion for Diocesan Council.)

Now, it appears to me, you have a clear and public demonstration - I refer to the St Johns meeting - of what can only be regarded as a grotesque want of judgment and propriety. It beggars belief that anyone can ever have judged it appropriate or that it was allowed to happen.

Here I turn to the principal reason for this letter.

When I heard that Mr Lloyd had been engaged to prosecute on behalf of the Director my initial reaction was that I could not think of anyone less appropriate to that function. I saw fit not to express such a view at the time, partly because of my perception referred to above and, partly, because it seemed to be a fait accompli.

I have known Mr Lloyd for many years. I like him. He is a decent and honourable man. For prosecuting thieves and robbers he is ideal. In the context of the function of a police prosecutor his judgment and experience are beyond doubt. He is a robust and enthusiastic advocate.

For representing this Diocese in the highly sensitive proceedings before the Board he is entirely unsuitable. That robustness and enthusiasm are entirely inappropriate to this jurisdiction. These proceedings are not - or should not be - about 'kicking heads'. Mr Lloyd has no legal qualifications and that I mention that fact is not to be seen as a mere professional snobbery. A lawyer engaged to fulfil the task of a prosecutor is subject to quite strict professional rules and obligations; Mr Lloyd is not. That is not to suggest even faintly that he would act dishonourably simply that there is a standard required of any lawyer who undertakes to prosecute. The position should be held by lawyer. A desire to avoid the cost of a lawyer is commendable. In a context where \$70000 has been unnecessarily thrown away on investigation it becomes, however, somewhat ludicrous.

That Mr Lloyd should be relied on by the Director as a legal adviser is utterly inappropriate. He is unfitted for such a position by either qualifications or experience. That he should be permitted to be- to any extent at all- the public face or spokesman for the Diocese is entirely abhorrent. What happened at the St Johns meeting was only too predictable by anyone who knows Mr Lloyd.

There is another important issue. I have now been made aware that Mr Lloyd is being paid by the Diocese for his services. To such payment he is not entitled by reason of the Legal Profession Act 2004. Only qualified persons holding current practising certificates are entitled to be paid for legal services.

My legal advice is that any commercial relationship between Mr Lloyd and the Diocese should be terminated forthwith. Obviously my view would be that he should not on any basis - paid or otherwise - be relied upon by the Director as a legal adviser. Nor, in my view is he an appropriate spokesman for the Diocese. These last two

matters are within the scope of your power to direct the Director should you see fit to do so. I offer my advice that you should do so.

I have marked this letter for your eyes only so that I may express my views with perhaps less circumlocution than I would in a public document. It will be apparent to you that I believe that there is something very wrong in our Professional Standards process. I urge upon you yet again the need for some significant oversight and a caution against an uncritical acceptance against what is placed before you. As much as I understand your desire that the process be independent of you, allowing complete licence is not very far from abdication.

I sincerely hope that I have not given offence in the way in which I have felt it necessary to write. My concern is solely that you, as the Bishop of this Diocese, should have the best advice I am able to give,

Sincerely

Paul Rosser QC
Chancellor

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