

professional standards - Fr Gumbley

From: Paul Rosser <REDACTED>
 To: John Cleary <johncleary@angdon.com>
 Date: Tue, 27 Apr 2010 13:35:04 +1000

Dear John,

This is to confirm my advice this morning. I would appreciate your bringing this matter to the attention of the Bishop as soon as possible. The following is offered as confidential to yourself and the Bishop only.

1. None of the material accessed from Fr Gumbley's computer journal is of the faintest relevance to the charges presently preferred against him except to the extent that it may tend to exculpate him. I find it difficult to imagine that anyone could reasonably have held a contrary view.
2. If the Professional Standards Director was advised by a legal practitioner that he was obliged by the terms of the Ordinance to act on that material in relation to the present charges, that advice was entirely wrong.
3. The material is, on its face of an intensely personal and private nature and I have no doubt that its downloading and subsequent dissemination by Fr Munnings and Mr Elliot is a cause of great and entirely justified concern to Fr Gumbley.
4. The material appears to have been produced to the Director in 2 installments - in October 2009 and again in 2010. This is a cause for very great concern: it is obvious that the material was obtained without the consent of Fr Gumbley and was thus improperly, if not criminally, obtained: see eg Crimes Act (NSW) s308H. That it has twice been provided to and accepted by the Director is quite extraordinary. The conduct of those involved in the obtaining and dissemination of this material might itself be 'examinable conduct' under the Ordinance.
5. That this material was provided to the presiding officer of the Board is most regrettable: it says nothing relevant about the present offences alleged and yet contains personal material that may well be seen as improperly prejudicial.

Of more general concern is what appears from an examination of the file.

It should be understood that there is no reflection to be cast on the work of ESPC - its work has been professionally carried out.

However, what is clear is that the nature of the investigation carried out by ESPC goes far beyond the scope of the investigation required by the Ordinance. The 72 page report with its conclusions as to the veracity of evidence, its expressed legal opinions and its detailed analysis of evidence go far beyond what the Ordinance requires. The cost of \$34000 for the investigation is, frankly, absurd.

Under our Ordinance it is the function of the Board to form conclusions about the reliability of witnesses, to resolve questions of law, to analyse the evidence and to come to conclusions. The only investigation required in this case was the production of statements of relevant witnesses and the submission of those statements to the Committee for its decision as to whether to refer the matter to the Board. We have had, and paid for, a Rolls Royce investigation when all that was required was a pushbike. The nature of the investigation may be suitable to some dispensations - it is entirely inappropriate to the scheme of our Ordinance. There is no call for any investigation under our Ordinance beyond that necessary to obtain the raw evidentiary material upon which the prosecution, if any, is to proceed. [I understand that there is another report pending in relation to a similar matter, no doubt at a similar cost.]

It appears from the file that all relevant statements had been obtained by early December, ie within 3 months of the suspension of Fr Gumbley. The Committee ought at that stage have been in a position to refer the matter to the Board or not, as it saw fit. The lengthy report referred to above was not made until 22 February 2010.

There also appears to me to have been no proper basis for the Committee's recommendation to the Bishop for Fr Gumbley's suspension. I appreciate that minds may differ on matters of this nature. There is nothing in the material which suggests to me that Fr Gumbley's continuation in office was a public scandal or that his suspension was necessary to protect any person. It would be interesting to know what factors operated on the Committee's mind. I would suggest that the minutes of the Committee meeting of 11 September 2009 should be made available for inspection.

What I have seen today fortifies me in my view that the activities of the PSC and Director should be subject to some ongoing oversight and that the confidential nature of its work should no longer be accepted as standing in the way of proper enquiry into the appropriateness and propriety of its activities. Whether that oversight is by the Diocesan Audit Committee or a standing committee of Diocesan Council (preferable) is a matter for determination by DC.

As I have indicated to you there are other matters which I find disturbing. I propose to bring forward at the next DC meeting the motion that I have discussed with you

Paul Rosser