

Statement by Gilbert Arthur Case

Re: Claim by BSE

1. BSE was born on REDACTED. He came to St. Paul's School at the beginning of Grade 8 in January 1991 and left in December 1993.

2. St. Paul's School is owned and operated by The Corporation of the Synod of the Diocese of Brisbane. All staff at the school are employed by the Diocese apart from one or two staff who work on site but are employed by the St. Paul's School (Bald Hills) Foundation Ltd. There is a School Council appointed under the Schools Regulation Canon of the Synod.

3. The Diocese owns and operates the following schools:-
 - Anglican Church Grammar School
 - Cannon Hill Anglican College
 - Coomera Anglican College
 - Fraser Coast Anglican College
 - St. Hilda's School
 - St. Luke's Anglican School
 - St. Paul's School
 - The Glennie School
 - The Southport School
 - Toowoomba Preparatory School
 - West Moreton Anglican College.

Eight other schools are affiliated with the Diocese. Those eight are owned and operated by other entities but may use the name "Anglican". They receive advice and assistance from the Diocese.

4. The "Synod" of the Diocese is its governing body. It passes Canons that deal with the regulation of the affairs of the Diocese. The "Schools Commission Canon" of 1991 constituted the "Anglican Schools Commission - Diocese of Brisbane". Its objects are set out in paragraph 5 of the Canon. A copy of paragraph 5 is annexed to this statement marked "A".



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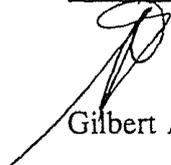
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5. I am headmaster of St. Paul's School. I have been headmaster since 1979.
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6. Police from Boondall station came to the school on 22 January 1997 as appears from my file note a copy of which is attached to this statement marked "B". They took the school counsellor's diaries for 1992 and 1993. The diaries were returned to the school by police on 25 May 1998 following a request by Flower & Hart.
 7. Attached to this statement as Annexure "C" is a rough sketch of the rooms used by Mr Lynch as a school counsellor. There was a panel of three lights at the entrance door. Red meant "Do not disturb". Yellow meant "Knock and wait before entering". Green meant "Enter".
 8. I would go to his rooms on an irregular basis, but probably on average about once a week. When I did, I would enter without regard to the lights. I cannot remember the entrance door ever being locked while Mr Lynch was inside. Mr Lynch did not have any remote control to operate the lock on the entrance door from his desk.
 9. The counselling diaries in which appointments were made by students for counselling sessions were kept inside the rooms. Students could enter the rooms at any time while Mr Lynch was there to record their appointments.
 10. I did not see anything unusual on the occasions when I visited the counselling rooms.
 11. Mr Lynch never mentioned to me that he massaged any students. He did not mention hypnotising students.
 - (a) *Failing to take any or adequate precautions to prevent the plaintiff from being sexually assaulted by Mr Lynch.*


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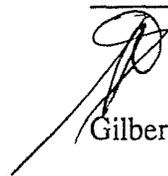
12. In 1992 each member of our staff was given a copy of an article on the Queensland Anti-Discrimination Act which had appeared in the February edition of the Queensland Law Society Journal. There was a section dealing with the sexual harassment provisions of the Act.
13. In 1993 St. Paul's School became a co-educational school. In June 1993 we developed a formal sexual harassment policy a copy of which is annexed marked "D". The sexual harassment policy was distributed to staff members but not to students initially. We were concerned that distributing it to students might give encouragement to frivolous complaints.
14. We were concerned at the beginning of 1993 with Mr Lynch's position as a potential counsellor of girls alone. We discussed this and advised him to leave the door open as often as possible, no matter whom he was counselling. It seemed to me that I was more concerned about the potential problems than Mr Lynch was.
15. There is no school requirement about being alone with a student. Staff are counselled at the beginning of each year about dangers of being alone with students. Staff are required to report anything that comes to their attention that affects enrolment, that involves harm to a student or to others or where an offence might be committed. The warnings are given by me and senior staff members verbally.
16. Staff were instructed not to physically abuse students. A staff handbook was published in 1988 and circulated to staff annually or biennially after that. The third paragraph on page 35 of the handbook says:-
"No teacher may hit a student or otherwise physically abuse a student. Corporal punishment is administered only by the Headmaster or the Senior Master."



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17. During 1992 we rearranged the senior staff of the school. This was part of our preparation for the School's becoming co-educational in 1993. We were concerned with the safety in all respects of the girls who would join the school. We were also concerned with staff being protected from allegations of misconduct. We have become more zealous in this area since then.
18. I have been headmaster of St. Paul's School since January 1979. I have never received an allegation of any staff member sexually interfering with any student. There was one teacher against whom a complaint was made that he exposed himself to boys on a camp. This was in the mid 1980's. When the matter was brought to the attention of this staff member (as it was immediately I found out about it), he left the school.
19. The Anglican Schools Commission has no published information or direction in relation to "sexual abuse". It has not formally considered any policy in relation to sexual abuse.
- (b) *Failing to remove Mr Lynch when the defendants knew or ought to have known that Mr Lynch had sexually assaulted children at the school.*
20. I did not know that Mr Lynch had sexually assaulted anyone. I do not think in hindsight that I ought to have known he was sexually assaulting anyone if that was true. I received no complaint about him. I trust my staff and there was no reason to imagine that Mr Lynch or anyone else on staff was sexually assaulting children.
21. One makes an assessment of one's staff over a period of time. From the commencement when usually little is known of them personally, an understanding and trust develops over many years. I had known Mr Lynch for 23 years and in the absence of any adverse comments about him I had come to trust him. I allowed him to look after my own children.
- (c) *Ignoring evidence or complaints of sexual abuse at the school.*



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22. Prior to 1997 I had only ever received one complaint of "sexual abuse" in relation to a teacher who exposed himself to boys on a camp as mentioned previously.
23. In April 1997, after Mr Lynch's death, three other students reported to the school chaplain that they had had experiences with Mr Lynch similar to those alleged by BSE

- (d) *Failing to institute any or any proper system to ensure that the student counsellor was a suitable person for the position.*
24. After teaching in New South Wales, Mr Lynch joined the staff at St. Joseph's College Gregory Terrace at the beginning of 1966. He transferred to Brisbane Grammar School ("the Grammar School") in Brisbane. Both Mr Lynch and I had worked at the Grammar School. Mr Lynch was an English/Economics teacher and had taken on the role at that school at the start of 1976 as a student counsellor after the retirement of the previous counsellor.
25. In the mid 1970's a qualified teacher but without specialist training in counselling had held the role of student counsellor at the Grammar School. He retired and Mr Lynch took it on.
26. Mr Lynch took early retirement from the Grammar School. I think that the reasons for the early "retirement" from the Grammar School were because Mr Lynch needed capital; he had separated from his wife and was going through a divorce at the time.
27. A position arose at St. Paul's School as a result of a School Evaluation Report in 1988 which had recommended that a counsellor be appointed. Thus, the position of School Counsellor was a new one created by the School Council. I am not aware whether the job description for the school counsellor was reduced to writing beyond the details which appeared in the newspaper advertisement. The position as school counsellor of St. Paul's School was advertised in "The Weekend

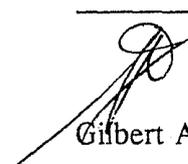


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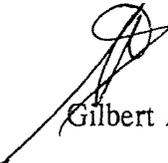
Australian" on 5 and 6 October 1988. Mr Lynch's application was received on 4 November 1988. I have not been able to locate a copy of the advertisement. The other applications would have been destroyed some time ago in the normal course of business as it is the school's policy not to retain unsuccessful applications beyond a short period after the position has been filled.

28. I believed that Mr Lynch had performed his duties at Brisbane Grammar School very well and I knew of no reason why he would have been unfit for appointment to St. Paul's. Mr Lynch was interviewed for the position of school counsellor on 9 November 1988 by myself, Mr R.F. Geise, the then Director of Studies and Mr J.C. Wright, the then Senior Master. I believe that the interviews were conducted separately by each of us.
29. At the time of his appointment to St. Paul's School, Mr Lynch held the following qualifications:-
- primary teaching certificate from Sydney Teachers' College
 - degree of Bachelor of Education from the University of Queensland
 - Diploma of School Counselling from the University of Queensland
 - member of the Australian College of Education
 - member of the American Association for Counselling and Development
 - member of the Guidance and Counselling Association of Queensland
 - an executive member of the State Committee of Careers Counsellors
30. Mr Lynch provided two referees and I spoke to both of them about Mr Lynch. One referee was Mr David Coote, headmaster of Blue Mountains Grammar School. The other referee was Mr Barry Nethercote, then president of the common room at Brisbane Grammar School. If there had been any adverse comment by the referees we would not have engaged Mr Lynch.


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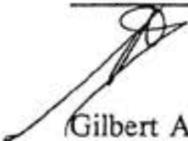
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31. Usually school counsellors have been teachers first, and then develop an interest in counselling as a career. The teaching experience is important. Some have formal psychology training. There are different levels of qualification of counsellors that licence them to administer different tests. Mr Lynch did not have those licences.
32. Students generally professed themselves happy with Mr Lynch's counselling. I received many endorsements of him.
33. A counsellor's job is often to get troubled children to talk to the counsellor as a friend rather than a person in authority. Counsellors also develop strategies for the improvement of particular students. Annexed to this statement marked "E" is a copy of the letter of appointment of Mr Lynch dated 6 December 1988 setting out his duties.
34. The task of counselling may justify unusual techniques but techniques such as those alleged in respect of Mr Lynch would never be acceptable in a school. Teachers these days are very careful not to allow themselves to be compromised. Most will not even enter change rooms while students are in the rooms.
- (e) *Failing to institute a policy whereby any teacher who was known or suspected of having sexually assaulted children was removed from the school.*
35. As mentioned previously in this statement, the only other occasion when I have had a complaint of a sexual nature was in the mid 1980's. There was no need to institute any formal policy to remove a teacher who sexually assaulted children. Sexual assaults are criminal offences and a criminal offence would justify immediate dismissal.
- (f) *Failing to carry out any or any appropriate investigations as to the suitability of the student counsellor to counsel and to care for children at the school.*


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36. In 1996 we introduced a formal evaluation system of staff. Mr Lynch was helping develop the system. The staff evaluation before 1996 involved me as headmaster having personal chats with staff. I also relied on my own observation and intuition in respect of these matters. The assessment procedure was introduced as a result of the introduction of an enterprise bargaining agreement for staff at Anglican schools. Staff appraisal is something that has developed during the 1990's but was not common in the period 1991 to 1993.
37. Nothing really stands out about Mr Lynch's behaviour over the years except that:-
- he at periods suffered from a drinking problem, which did not manifest itself at school and did not affect his school work;
 - he volunteered to see students alone at his home.
38. Shortly after coming to St. Paul's Mr Lynch, who had been a Roman Catholic, was received into the Anglican Church. Mr Lynch then became a member of the same parish congregation as I. We worshipped at St. Paul's school chapel and so most Sunday mornings I would see him in church.
39. Mr Lynch lived at **REDACTED** a house which he had purchased when he commenced employment at St. Paul's.
40. Mr Lynch suffered from cerebral palsy and occasionally his slurred speech may have been mistaken by others as being caused by alcohol. As a friend, I believed I could tell when Mr Lynch's speech was slurred because of alcohol.
41. The only observations made to me by others about Mr Lynch's drinking habits were the observations from other members of staff he had spoken to after hours and who were his friends. The observations were more an expression of concern for him rather than complaints.



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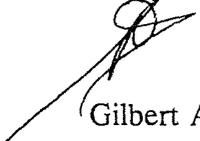
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42. I always discourage staff from meeting students at home.
- (g) *Allowing and permitting the student counsellor regularly to conduct private counselling sessions with students at the school.*
43. The counselling which Mr Lynch undertook at St. Paul's concerned both career and personal counselling. They go hand in hand. Confidentiality in counselling practice is intrinsic to its success.
44. The practice was that students sought out Mr Lynch of their own accord so as to encourage them to the view that their meetings with Mr Lynch were confidential. Mr Lynch did not like students being referred to him. He defended his position that students should see him voluntarily although sometimes teachers did refer students to him.
45. The counsellor's job was to conduct interviews in private. It is not practical for the counsellor to conduct interviews in the presence of a third party.
- (h) *Failing to take any or any proper steps to ascertain the content and nature of the counselling sessions engaged in between the students and the student counsellor.*
46. I knew of the contents of Mr Lynch's counselling sessions from his annual report. He might specifically refer to an individual matter where, for example, the student was suicidal. If I knew a student had been seeing Mr Lynch I would often ask the student how he was going. They usually replied favourably and I did not receive any complaints until made aware of BSE allegations and then in April 1997 from the three students referred to in paragraph 23 of this statement.
- (i) *Failing to take any or any proper steps to review the work of the student counsellor or to require the student counsellor to account for or explain the nature of the counselling sessions with the students.*


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47. Mr Lynch was required to provide an annual report. A copy of his report for the year ending 30 June 1994 is annexed marked "F". This gives a statistical account of Mr Lynch's work.
- (j) *Allowing the student counsellor to work in an arrangement of locked rooms which preclude any appropriate review and a checking of the procedures undertaken by the student counsellor.*
48. The rooms were not locked even if the red light was on at the door. I did visit unannounced during counselling sessions on average about once a week. I can remember entering the room when the red light was on. There was nothing untoward on any of these occasions.
- (k) *Allowing the student counsellor to have sufficient access to the students at the school so as to be able to repeatedly engage in sexual abuse of those students under hypnosis without it becoming known.*
49. The student counsellor had access to all students at all times. Whatever recommendation the counsellor came up with in respect of the student was usually implemented. There would have been times, however, when Mr Lynch's recommendations regarding a student would have been overruled. I cannot remember any particular instance of this.
- (l) *Failing to institute a system whereby students were not left alone in the company of the student counsellor so as to allow the student counsellor opportunity to sexually abuse the students.*
50. It is not practical to have a third party present at counselling sessions.
- (m) *Failing to monitor at all times the whereabouts of students including the plaintiff at the school.*


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51. We attempt always to account for the students on campus. Absence from classes while in the school grounds requires permission slips signed by the teacher from whose class the student seeks to be absent.
- (n) *Failing to ascertain the reason for repeated and regular counselling sessions being engaged in between the students and the student counsellor.*
52. I would not know if a student was having repeated or regular counselling sessions unless I went and looked at the diary. There is no particular reason why a student should not have regular counselling particularly if they have behavioural problems. I did not know [BSE] had attended sessions as regularly as the diaries would indicate. Had that been drawn to my attention I would have suggested to Mr Lynch that [BSE] be referred for outside counselling.
- (o) *Failing to make any or any proper effort to reduce the risk of abuse by teachers including the student counsellor.*
53. The welfare of the students of the school is always paramount. It is part of my job to consider always how the interests of the students may best be protected and promoted.
- (p) *Failing to take action at the earliest possible moment once a risk of sexual abuse by the student counsellor was identified.*
54. Risk of sexual abuse by the student counsellor was not identified to me until after he was taken into custody by the police.
- (q) *Failing to make all personnel at the school aware of the seriousness of sexual abuse.*



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55. All staff at the school are aware of the seriousness of sexual abuse.
56. Sex education is taught as part of the curriculum in Grade 10. In addition, issues of physiology arise in biology classes and ethics is taught as part of Christian education. The sex education course does not include teaching of child molestation or paedophilia.
57. The question as to whether sex education should be taught in schools and if so, to what extent, is contentious. There are differences between teaching physical/factual content and teaching morals. Morals are generally taught at St. Paul's within Christian education and according to Christian principles.
- (r) *Failing to warn teachers including the student counsellor against inappropriate behaviour with students.*
58. I often warn staff in groups and individually formally and informally that inappropriate activities with the students are unacceptable. Any illegal activity is unacceptable. Mr Lynch would have been involved in meetings where this was discussed.
- (s) *Failing to recognise, notify or investigate the behaviour of the student counsellor in respect of students.*
59. There was no particular reason to notify or investigate the behaviour of the student counsellor in respect of students. I did not recognise the alleged behaviour of the student counsellor and I do not think I could have in the absence of any indication of unusual behaviour.
- (t) *Failing to have in place procedures for obtaining reference checks, police checks, and suitability of the student counsellor for employment.*


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60. In Mr Lynch's case, I checked his references. Absence of a criminal record is a requisite for teacher registration in Queensland. I had no doubt as to his suitability for the job.
61. Details of BSE
Enrolment REDACTED

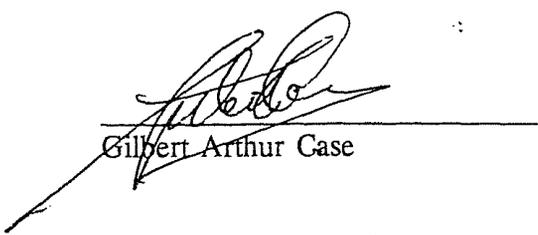
Date of Birth REDACTED
State School REDACTED
62. BSE parents applied in 1983 for BSE to enter the school in Year 7, 1990. They subsequently altered this so that he would enter in Year 8, 1991.
63. Reports from REDACTED showed poor achievement. There was a suggestion that he had some sporting ability.
64. His semester results were poor throughout his time at St. Paul's. His report for first semester 1992 showed some behaviour improvement as did his report for September 1992. A more positive note was recorded in his semester report for March 1993.
65. BSE was an undisciplined student. He received many detentions. A record of his detentions at the school in Years 8, 9 and 10 is attached to this statement as Annexure "G".
66. There was an incident in September 1993 when BSE assaulted another student in public. I wrote to his parents on 14 September 1993 suspending BSE. Following approaches from BSE and his parents, I allowed him to re-enter the school on the basis of a "contract" for him to behave.



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67. In November 1993 he was placed under further suspension because of further disciplinary problems. He left the school in December 1993.



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Date: 22. vi. 98