

BOARD OF ENQUIRY

into past handling of Complaints
of sexual abuse in the Anglican
Diocese of Brisbane

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*Nothing that requires
comment from*

F.H.

1/1/03

Private and Confidential
To be opened by addressee only

Mr Gilbert Case

REDACTED

Dear Mr Case,

The Board of Enquiry was constituted to enquire into the past handling of complaints of sexual abuse in the diocese of Brisbane. Enclosed herewith are the Terms of Reference. It will be noted that they have been amended to provide for the completion of the report by 21 March.

Enclosed herewith is a draft document giving a description of the complaints in respect of the late Mr Kevin Lynch deceased ("Lynch"), when he was the Student Counsellor at St Paul's.

The Board invites your comments upon the document, the tentative nature of which is stressed.

The Board is concerned to give to any person, the subject of actual or potential criticism, the full opportunity to meet that criticism.

The Board in that context notes that the claims of a large number of the complaining students were settled upon the apparent basis that it was

considered more likely than not that the students would be successful in proving that the diocese was negligent in that it knew, or ought to have known, of the danger of Lynch engaging in sexual abuse. Such negligence would have been attributed to the diocese by reason of you being seen as the relevant "mind" of the diocese (a corporation), alternatively, that the diocese was vicariously liable for your negligence as an employee of the diocese.

The Board invites you to make what submissions (if any) you consider appropriate in relation to the following matters:

1. Did you make any enquiries of the Brisbane Grammar School as to the manner in which Lynch performed his duties as a Counsellor at that school? It is appreciated that you were a close friend of Lynch.
2. If enquiries were made, what were the results?
3. Did you make any enquiries of Mr Howell, the then Principal of the Brisbane Grammar School, as to Lynch's performance whilst a teacher at Grammar.
4. The Board has seen your amended statement made in or about August 2002. In a letter which it is understood was written to Robert Cunningham you stated-

"I hope this revision is helpful. As you know, Brodie Pohle and Jean Dalton have asked me to see them on Monday morning next."

In paragraph 15 of your statement the following appears-

"In 1996, Lynch sent students BSB and BRC to me for discipline. He told me he was sending them down because they knocked his furniture over and pinned him in his chair. I interviewed BSB and BRC who complained that they were angry with Lynch because he had exchanged their personal details with other students. BSB and BRC in particular were known to hang around Lynch's office and do minor clerical work which he found for them to do. This would include some photo copying, or tidying careers material on his library shelves. I therefore interpreted what had happened as a prank arising from over familiarity with a member of staff, which had over stepped the bounds.

5. What is your present recollection of any conversation you may have had with Lynch in relation to this incident? It might well be said that the incident was of such significance or seriousness that it invited investigation. Did you undertake any further investigation than what appears from the statement?
6. When you refer to the complaint "he had exchanged their personal details with other students", did they state that those details included "sizes of penis" etc. If not, what were the personal details referred to by the Students.

7. Two Students have alleged that they saw you on the day after the occasion referred to, and informed you of the misconduct of Lynch. What do you say to that?
8. When you were informed by Detective Morrow that Lynch was to be charged, you have stated that you told Detective Morrow you did not believe the allegation by BSE [redacted]. What was the basis for that statement of non-belief.
9. At page 39 of your statement you refer to BSE [redacted]'s reputation in the school as "a liar and a bully", that he was a very difficult student and was probably referred to Lynch because of these problems. "He was disruptive at times with possible danger. . . This coloured my perception of his complaint to the police."
- Did you ask Detective Morrow what BSE [redacted] had said in his complaint to the police? If not, why not?
10. Further, after Lynch had suicided and you had further discussions with Detective Morrow as to what the police were doing, namely, "I rang Detective Morrow on 24 January in the morning. I asked him 'what happens now'. He said that because Lynch was deceased the police had no further interest. I asked if there was anything else I needed to do. He said that as far as they were concerned the matter was finished."
11. Did you then seek further information from Detective Morrow as to what in fact Lynch had been charged with and the basis upon which those charges were laid?
12. Lynch was charged with several counts of serious sexual abuse as appears from the draft document submitted. When, if ever, did you know what the charges were?
13. Had you been aware that Lynch had been charged with the offences referred to, would that have made a difference to your attitude as to the validity of BSE [redacted]'s allegations.
14. Had you been aware that BSE [redacted] had made detailed complaints of protracted sexual abuse by Lynch, and further that Lynch had abused other students, and that BSE [redacted] had recorded a conversation with Lynch in which Lynch made admissions that he had committed a criminal offence, what would you have done.
15. In your statement you say that you and the Chaplain, Father Henry, believed that the complaint of BSE [redacted] was "entirely vexatious, vindictive and without foundation." Was that based on anything more than what you said coloured your perception as referred to at para 9 above.

16. Apart from saying that the Complainant's character being rebellious and that of a bully, coloured your perception of the complaint, did you take any other steps to verify whether or not the complaint was correct?
17. Did you consider whether the fact that the Complainant had a troubled history may have reflected his being the subject of sexual abuse, rather than producing a tendency to fabricate false charges.
18. In your statement, you state that you had prepared an address to the staff on the night of 23rd January, in which you included the prayer for suicide. What was to be your explanation (if any), for the Lynch suicide, given that the staff were to be made aware of it by the prayer?
19. Would you agree, that the proper thing to have done, at least viewed in hindsight, was when you were informed by the police that they were about to charge Lynch and did so, was to seek the fullest particulars of what the police had been told, and what had caused them to act as they had, and to have conducted an investigation from that basis.
20. Instead, as apparently directed and encouraged by the School Council, it appears that you set in train a process whereby it was intended to convey the situation, (and for some months it did), that Lynch had an unsullied character as a School Counsellor, and that he had done much good for the school. What do you say to that suggestion?
21. What do you say to a suggestion at the least parents of all students at the school should have been informed that a shocking event had occurred, namely that Lynch was a serial sexual abuser.
22. Would it not have been appropriate, upon hearing the complaint of BSE BSE the charges by the police, and the subsequent suicide, to have contacted BSE and asked him to come and talk with you.
23. At page 20 of the "Complaints" document Lynch is recorded as saying "I've got to ring Gilbert at half past eight to say you haven't fucking murdered me".

Did you have any such arrangement with Lynch, and did you have a telephone conversation on that night 16 October 1996.

It is appreciated that the above is put in a somewhat tendentious manner. The reason this is done is to alert you to potential areas of criticism, so that, if you wish, you can make submissions as to what you say ought to be the view taken of what has occurred.

24. In paragraph 85 of your statement you say-

"With the benefit of hindsight the efforts which were made to identify other victims were both inefficient and lacked persistence in terms of what is now alleged about the extent of Lynch's behaviour. However, the efforts were

abandoned primarily because they were not proving successful in identifying any further victims."

That seems to ignore the fact that the three Complainants in April 1997 spoke of other victims. Further, the testimony of those three other Complainants confirmed the complaint of BSE

25. The minutes of the School Council of February 12, 1997, states-

"The Head Master briefed those present regarding the circumstances associated with Mr Lynch's death."

Could you advise as to what you stated to those present. Were they advised first, that Mr Lynch had been charged by the police with a number of counts of sexual abuse, second, that on the day he was to appear in court, he suicided, and three, the identity of and/or the reputation of the informant.

26. Did the members of the Council seek further information, or direct you to make further enquiries as to the situation of this alleged abuse?

27. At a meeting of the Council on 11 June 1997 under the heading Report of the Headmaster it is stated,

"The Headmaster spoke to matters which had arisen with respect to a former staff member. He was asked to ensure an appropriate policy was put in place to deal with any future situations which might arise. Such policy should take into account current education Queensland policies and provide for adequate counselling for affected parties."

28. What action did you then or thereafter take with respect to the request made of you in relation to putting "an appropriate police in place".

It is proposed to send to the members of the School Council at the relevant time a copy of this letter, and inviting the members of the School Council to give their response in the light of that letter, together with their response to specific questions directed to them in their capacity as School Councillors.

Similarly, copies of the letters will be provided to Dr Hollingworth, Mr Bernard Yorke, Archbishop Aspinall, and without at this stage seeking to identify them, any other relevant person. They will be similarly invited to respond.

The Diocese of Brisbane has decided that person who evidence to the Enquiry should be indemnified.

Enclosed herewith is an indemnity which you are invited to complete and return to the Board.

A copy of the letter to the School Councillors is also enclosed.

Yours sincerely,

Peter O'Callaghan
Chairman