

1 I, Elizabeth Bellette-Stubbs [REDACTED], Tel No [REDACTED] DOB [REDACTED]/1963, state that I was a secondary student at St Mary's College, Wollongong. I completed a Bachelor of Education Degree at Wollongong University & commence employment as a secondary teacher at Holy Spirit College, Bellambi, in 1990. In 1991 I was at St Joseph's High School, Albion Park. I had always been interested in the education of students with mental and physical disabilities. I obtained a position as a secondary teacher at Mater Dei School, Camden, in 1992. I left at the end of October 1994.

I commenced a Master of Education Degree course in mid 1992 and am to graduate in the immediate future.

2 When I commenced at Mater Dei I found that many of the teachers were new to the school for that year. One of those who commenced at the same time was Nicki Fereday, who was responsible for the Personal Development Programme.

In 1992 I was allocated to the Junior Class of the Secondary School - students aged 12-13. There were 9 students. I had an assistant, Margaret Henneger. She was with me on an almost full time basis.

The Secondary School had a similar structure to a normal high school. For the first 2 weeks of 1992 I had the class group full time. For the remainder of the year I normally had them for the first 2 periods of the day. They were with other teachers for the remainder of the day. English was the main subject matter of my periods, but a variety of social issues were also covered. A Personal Development/Sexual Education Programme was introduced with Nicki Fereday being the main teacher involved with the students on this subject. I mainly spoke to them about friendships, based on Christian principles, during the first 2 terms.

3 Sexual education commenced in the third term. Cartoon videos were the main method of providing instruction on this subject. The main video shown was "What's

"Happening to Me". This was shown to the students about twice a week, in view of their intellectual disabilities, in an attempt to have them absorb the material. The subject matter relates to the changes in the body at puberty. The students in the class were either pre-pubertal or were just commencing puberty.

There is another excellent cartoon video relating to body changes, for slightly older students. The subject matter included puberty, hormonal changes, masturbation, wet dreams etc. It is possible this video was also shown to the class group later in the year. In view of the lapse of time I am uncertain if I mentioned intercourse and conception etc to this class group.

4. CIO had commenced at the school in 1991. She was of average height for her age and of thin build. She did not appear to be into puberty. She was moderately intellectually disabled and her mental age appeared to be about 4. REDACTED had also been at the school for some time. He was moderately intellectually disabled and his mental age appeared to be about 4-5. He was of average size for his age. He was probably just coming into puberty. He was generally a well behaved, co-operative boy. REDACTE and another boy, REDACTED, were "good mates" and appeared to be interested in typical boys' activities - mainly ball games, including football.

CIO and CIB were friends. CIB was moderately to severely intellectually disabled. Her mental age was 3 to 4.

As the year progressed I experienced more behaviour problems with CIO. After she left I prepared a detailed 2 page report relative to her behaviour over the period at the school.

5. I learned, I believe late in the first term, that there had been a sexual incident between CIO and REDACTE at their residential cottage, Barrallier. I had not been aware of any physical attraction between CIO and REDACTE in the classroom beforehand or

subsequently. They sat on opposite sides of the classroom - there was no need to isolate them.

The Dept of Community Services investigated the incident and one to one counselling was arranged for both students - I did not become involved in their counselling. It was my impression there was a gradual deterioration in CIO behaviour - there was no particular change following the incident at Barrallier.

6 There was a meeting at the school later in the year which DOCS officers and CIO's mother attended. The DOCS officers commented that what had occurred was a consenting incident between two 13-14 year olds. I do not recall any significant comment being made by the girl's mother.

I think that I had previously only spoken to CIO's mother on one occasion on the telephone - she never came to the classroom. During the 2nd term, CIO sustained a foot injury and was absent for some weeks. Her mother asked for additional work to be sent home for her.

7 The meeting on 30/7/92 mainly related to CIO's continuing education and the need for counselling. Chesney Penfold of DOCS was to be the Co-ordinator. I had a subsequent meeting with Chesney on 24/8/92 and further strategies were developed. I completed Minutes of this meeting and these are attached.

8 CIO had been absent for about 6 weeks in the 2nd term and then for a further 2 weeks in the 3rd term. She resumed school on 17/8/92. Her last day was Friday, 28/8/92. Her behaviour was poor during the first 2 periods she was with me. The events are detailed in the 2 page report I prepared at that time. I was informed on Monday 31/8/92 that she would not be returning to school as it was alleged there had been a sexual act between REDACTED and she on the Friday. I was informed this allegedly occurred during the lunch period. I carried out extensive investigation of the events of that day and prepared a handwritten summary of CIO's movements and the periods which she attended

Statements were made by the teachers who were on lunch supervision. Both advised they could not understand how the incident occurred as CIO had been in their sight.

I understand there is now the possibility the alleged incident occurred during the morning recess. My note for this reads:

"Morning tea - Liz - ate and talked happily. In teacher's sight".

Unfortunately, arising from the lapse of time I do not have a clear recollection of all the events of that day. I am uncertain whether I was supervising the students during the morning recess or whether there was another teacher in this role. If it was a cold/wet day it is most likely the students would have been on the verandah or in the library.

I noted the students were within the teacher's sight. This reference is to CIO and REDACTED and I therefore doubted if the alleged incident could have occurred during the recess period.

9. I understand there was an allegation that CIO informed Bruce Kline of the incident and that he had placed her in the "naughty corner". Bruce is a very experienced teacher in this field. Although he may isolate students for misbehaviour, he would never have used the term "naughty corner". To my knowledge no teachers had ever used this term.

10. I understand that when REDACTED was interviewed he advised that CIO was the instigator and that the incident occurred in the PE Room. I had found that REDACTED memory was very poor and one could not rely on what he stated, some time after an event.

CIO was only with me for a short period and I was unable to form an opinion relative to her memory and reliability.

11 I have read the Statement of Claim. I am only able to comment on some of the allegations and Particulars of Negligence. These are as follows:

- 7a - Failure to identify the risk posed by REDACTED
- Answer There was no indication that REDACTED posed a risk to CIO. There was no evidence of physical attraction between them.
- 7b - Failure to isolate REDACTED from female pupils
- Answer It is contrary to current educational practice for intellectually disabled children to isolate males from females. There was no basis for isolating REDACTED from the female pupils. There had been no misbehaviour.
- 7d - Failure to properly (or at all) instruct, train and counsel REDACTED as to proper physical and sexual conduct.
- Answer At that stage of the year (March 1992) we had been focusing on friendship and relationships between students. There had been no indication of misbehaviour on REDACTED part which required specific counselling. He related to the female students in a normal, friendly way.
- 7e - Failure to properly (or at all) instruct, train and counsel the Plaintiff to deal with physical and sexual advances.
- Answer See that for d. There had been no indication that CIO was subjected to advances by REDACTED or any other boys at that stage.
- 9a - The Plaintiff repeats paragraphs 7a to 7i inclusive.
- Answer Following the incident in March 1992 one to one counselling was arranged, in conjunction with the Dept of Community Services for both REDACTED and CIO.

- 9b - Failure to properly (or at all) supervise pupils in their lunch periods.
- Answer There was constant supervision during both the lunch period and morning recess. This supervision included frequent checking of the toilets to ensure there was no misbehaviour there.
- 9c - Encouraging and promoting the Plaintiff's attendance at the Defendant's school when the Defendant knew or should have known of risk of further sexual assault.
- Answer To my knowledge ^{CIO} s mother was not encouraged to have her daughter continue to attend the school. It is noted in the Minutes of the meeting of 30/7/92 that she wished her daughter to continue at Mater Dei "as no other option exists".
- 9d - Failure to identify the first sexual assault as an assault.
- Answer I was not provided with the specific details of the incident but, at the meeting on 30/7/92, the DOCS officers advised this was not assault but a sexual act between consenting 13-14 year olds.
- 9e - Failure to properly (or at all) discipline or counsel [REDACTED]
- Answer One to one counselling was arranged with Buzz Cutts, of the Sexual Health Centre, Liverpool.
- 9f - Failure to require psychiatric treatment of [REDACTED] relevant to his sexual behaviour or potential behaviour.
- Answer See that for 9e
- 10c - Failure to isolate [REDACTED] from the Plaintiff.
- Answer It was never considered this action was necessary. ^{CIO} was moved to another residential cottage but it was inappropriate

to isolate them in the classroom. They remained on opposite sides of the room.

10e - Permit or allow REDACTED and the Plaintiff to continue in the same class.

Answer See that for c. CIO could have been moved back to the Junior School but this would have been completely inappropriate, from an educational viewpoint.

10h - Failure to condemn REDACTE's conduct.

Answer He received one to one counselling. I did not consider it was appropriate for him to be condemned for what were apparently consenting acts with CIO being the initiator of the second act. I probably explained to him on more than one occasion that his behaviour was not appropriate and that he should say "No" to sex, with the appropriate place for this activity being marriage.

10i - Failing to identify the cause of the Plaintiff's post-sexual assault behaviour problems.

Answer There was a gradual deterioration in CIO's behaviour over the entire period at the school - it did not appear to specifically arise from the first incident in March 1992.

10j - Failing to properly (or at all) respond to the Plaintiff's post-sexual assault behaviour problems.

Answer See that for 10i - there was a gradual deterioration in behaviour - it did not arise following the incident in March.

10k - Permitting the second sexual assault to occur.

Answer There was no permission and to my knowledge the students were under direct supervision throughout morning recess and

the lunch period on ^{CIO} s last day at school.