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CORRS

CHAMBERS

WESTGARTH

7 June 2000

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**PRIVATE & CONFIDENTIAL  
 BY DELIVERY**

Our reference  
 DJA

Mr Ken Winks  
 Aon Risk Services  
 Level 10  
 12 Creek Street  
 BRISBANE QLD 4000

Dear Ken

**BRISBANE GRAMMAR SCHOOL ("THE SCHOOL") - POLICY NO  
 VZ23390**

We confirm we act for Brisbane Grammar School in relation to allegations which have been raised in the Courier-Mail over the past 10 days regarding sexual abuse of students by a former teacher and counsellor employed by the School.

We refer to our various discussions in relation to the matter last week and to our conference on Friday, 2 June when you provided a copy of the "Educational Package Master Liability Wording Professional Indemnity Insurance Policy" which applies to the School.

We understand that Aon and its predecessors have been insurance brokers to the School for many years and that you have been able to locate details in relation to relevant public liability policies going back to 1984. You are endeavouring to obtain copies of the policy wordings for the various public liability policies and also details of the cover prior to 1984.

As we mentioned on the telephone, our client recalls that prior to you being the contact point within the brokers for the School, Mr John Glover was involved. It may be he can assist in providing information with respect to policies prior to 1984.

The purpose of this letter is to give notice of circumstances which are reasonably likely to subsequently give rise to claims which will be covered either by the current professional indemnity insurance policy referred to above, or the various public liability policies depending upon the year or years in which the claims arose.

**Notification of Circumstances Which May Give Rise to Claims**

Mr Kevin Lynch was employed by the School between 1973 and 1988. He was initially engaged as a subject master in English, History and Economics. By

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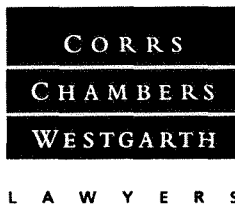
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1977, having completed a Graduate Diploma in Education Counselling, Mr Lynch was appointed as the full-time School Counsellor.

After leaving the School in 1988, Mr Lynch was employed by St Paul's School at Bald Hills, Brisbane. He took his own life in 1997. We have since ascertained that shortly before taking his life he had been charged by Police with various offences against students of St Paul's College.

The allegations were made against the School in a front page article in the Courier-Mail on Saturday, 27 May. We **enclose** a copy of that article. The article refers to a Brisbane legal firm, Shine Roche McGowan, as acting for a number of students with a view to taking legal action against the School. Since that day there have been further reports in the Courier-Mail to the effect that Shine Roche McGowan are now acting for some 60 students, but those students would presumably be from both the School and St Paul's School. We enclose a copy of a letter from Shine Roche McGowan dated 2 June. We have not yet responded to that letter.

**Basis of Potential Claims**

Our client has not received any formal demand to date, but anticipates, in view of what has been said in the press, that a number of claims may be lodged. We should also say that the current School Counsellor has fielded a number of complaints from past students from which it is apparent there were instances of abuse as alleged in the newspaper.

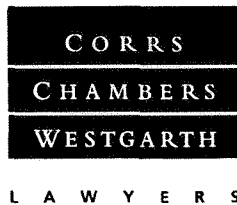
Therefore, the potential claimants are students who attended the School between 1973 and 1988 and we anticipate that the claims will be made against the School and also, possibly, against staff personally if it is alleged that complaints were made to particular staff members and not acted upon.

We anticipate the claims against the School may be on two separate bases:

- 1 That the School is vicariously liable for the actions of Mr Lynch;
- 2 That the School is directly liable for failing to have in place adequate systems/checks and balances to prevent such occurrences.

Because of the ongoing management issues which the School needs to address as referred to below, it is essential that you give notice as a matter of urgency to both the current professional indemnity insurer and also the various public/general liability insurers for the years 1973 to 1988. We have sent a copy of the letter and enclosures direct to Michael Walsh of HIH. You will appreciate that until formal





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demands are made, we have no way of knowing which years may be relevant in terms of the public liability policies.

**School Management Issues**

Having taken advice from three eminent psychiatrists, experienced in child sex abuse issues, our client is acutely aware of the impact which Mr Lynch's behaviour may have had on students and has been endeavouring to respond publicly in a manner designed to demonstrate publicly that the School takes the allegations seriously and is carrying out an investigation. In this regard we **enclose** a copy of a media statement released by the School on 26 May, having been informed by the Courier-Mail of the allegations which were to be made.

Further, the School has set up a procedure whereby any students wishing to discuss the matter or report complaints speak to the current School Counsellor. A record has been kept of those discussions. We have taken preliminary statements from a number of current staff who were present during Mr Lynch's era and have also located and taken statements from a number of School management staff at the relevant time. We can provide copies of those statements if you wish.

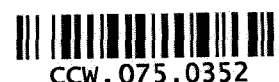
We have advised the School that there are difficult legal hurdles for potential claimants to overcome, particularly the Statute of Limitations, the issue of whether the School is vicariously liable for Mr Lynch's actions, causation and damage.

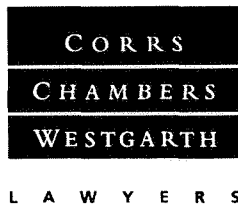
On the issue of legal liability, obviously the interests of underwriters and the School are the same.

The coverage by the press has been quite unnecessarily vicious and lacking in good faith. It has raised concerns amongst staff, current students and their parents. There is concern that the School is currently perceived as adopting a position of denial. The advice from the psychiatrists, one of whom has been closely involved in managing claims against the Catholic Church, is that it is essential, in any strategy to limit claims, to publicly accept a moral responsibility, as opposed to a legal responsibility, and to offer early assessment and counselling for claimants who genuinely require it.

As part of a strategy designed to limit the likelihood of claims the School would like to issue a press statement this Friday 9 June which would make reference to the following matters:

- 1 A general denial of legal liability in respect of claims.





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- 2 That the School has carried out preliminary investigations from which it is difficult to conclude whether the School had knowledge of Mr Lynch's behaviour as the allegations of knowledge as referred to in the press have been denied.
- 3 Setting up a counselling service, to be administered by Dr Joan Lawrence (Psychiatrist), to provide appropriate levels of counselling for those students who were abused and who wish to avail themselves of counselling.
- 4 The appointment of an independent panel (to include a psychiatrist, educator and lawyer), to conduct an assessment of the School's current protocols and procedures and to advise what further procedures should be implemented in order to achieve best practice to ensure that the risk of such occurrences occurring in the future are minimised. It is proposed that the results of that assessment be made public for the benefit of other schools.

In view of the content of the letter from Shine Roche McGowan referred to above and the advice received in relation to immediate implementation of counselling services it is our view that the cost of counselling services, in so far as they are not able to be funded through public health, should be funded by the insurer as a legal/associated cost necessarily incurred with a view to limiting claims generally. We would like to discuss that issue with Underwriters.

We expect to be in a position to provide a copy of the proposed press release later today or early in the morning. You will appreciate the School would welcome any comments from Underwriters in relation to the issues raised in the press statement and specifically requests immediate advice from Underwriters if they object to the strategies being put in place by the School. While the School is concerned to ensure that all steps which it takes in relation to the matter do not impact upon its entitlement to indemnity under one or other of the policies referred to above it is also committed to taking steps to limit the extent of claims that may be made.

We look forward to hearing from you.

Yours faithfully

**CORR S CHAMBERS WESTGARTH**

*David Abernethy*  
David Abernethy  
Partner

encl



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