

## The “Lynch Affair”

### Lessons to be Learnt<sup>1</sup>

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#### *Introduction:*

In April 2000 the revelation to the Brisbane Grammar School community and to the School’s leadership of the paedophile activities within the School of its former counsellor, Kevin Lynch, set in train a chain of events that involved great stress for both many of Lynch’s victims and for the School community and its authorities who were charged with handling the outcomes of his behaviour. These consequences continue to the present day.

This paper seeks to provide a brief background of the matter and an outline of the handling of the matter by the School’s authorities. This is followed by some more speculative material in which some suggestions are proposed in response to the questions: *How did it happen? What do the School’s present authorities consider that they did well in such circumstances?* Finally the paper puts forward some thoughts on two questions: *What preventative measures should schools be undertaking to seek to avoid such misbehaviour on the part of a staff member in the future?* and *What forward measures should schools be taking to be prepared to handle similar crisis situations?*

#### *Some background to the Lynch situation at BGS:*

Kevin Lynch came to BGS in 1973 as a Humanities teacher from another prominent private school in Brisbane. Not long after he commenced he expressed interest in a counselling role and was given work in that area.

At that time there were very few counsellors operating in schools; BGS would have been considered ‘leading edge’ in providing such a service. Such a role inevitably raised issues of management and how to deal with the issue of confidentiality that was

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<sup>1</sup> This paper was originally presented at a meeting of the Medico-Legal Society of Queensland on 30<sup>th</sup> October 2004. This version has been modified and amplified in places for publication with the proceedings of that seminar. The paper certainly does not presume to provide either a complete response to the two final questions nor does it assume that the advice is either the only or the best available. The paper was prepared as an attempt to help make children in schools safe against sexual adult predators, so that they can enjoy what should be their right to experience a stimulating and also a joyful learning environment. I accepted the offer to share the School’s perspective of the “Lynch matter” at the seminar in the hope that it would add something to the picture and in order to learn more as an educator about the perspectives of those in other professions regarding such matters. I would also like to express sincere appreciation of those members of the medical and legal professions who gave such excellent assistance to the School and to the victims of Lynch as we have worked together to try to redress some of the wrongs committed in the name of the School.

required for counsellors to be effective and to generate trust in students. We will return to this issue.

In support of his professed interest in counselling and to assist in his new role Lynch undertook a Graduate Diploma course through UQ in School Counselling in 1977. The School's then Headmaster was evidently impressed and satisfied with Lynch's counselling work and, with Board approval, created a new position of a full-time internal School Counsellor. The role would also embrace a significant element of Careers counselling.

Lynch was well-known and respected among his teaching colleagues, even though some also regarded him as a little 'quirky'. He was a small man with a clearly defined limp.

Lynch practised as the School Counsellor through to the end of 1988, when he announced to the then Headmaster that he wished to resign to enable him to access money from his superannuation to finance a new residence for himself after his marriage break-up. He left the School at the end of 1988.

Lynch went on to be employed as School Counsellor at St. Paul's School in north Brisbane. The Head of St. Paul's at that time had been a former colleague of Lynch at BGS in the 1970s. In 1997 I represented BGS at Lynch's funeral with no knowledge of the events that had led to his suicide.

In April 2000 the School journalists contacted the School in connection with the Nigel Parodi issue with police. Parodi had, for a short time at the start of his secondary schooling, been a student at BGS. The media reports hinted that Parodi may have suffered abuse while at BGS. In the same month the press contacted the School again wanting to confirm information about abuse of students at BGS by its former counsellor Kevin Lynch. The whole matter of Lynch's paedophile activities at both BGS and St. Paul's exploded in the media in early May.

#### *Handling of matter by School:*

The School's Chairman of the Board of Trustees, Mr Howard Stack, is a very experienced lawyer who had worked in his early career with legal issues relating to the media. He handled the initial contact with the press prior to publication. He listened to what he was told by journalists about allegations of Lynch's professional misbehaviour while at BGS. He followed up immediately and personally with two victims who were prepared to talk to him, telling them that he had no reason to disbelieve what they were saying and that he was deeply troubled and sincerely apologised on behalf of the School for any abuse that may have occurred. Stack had been elected to the School's Board in 1991 and has been Chairman since that time. He rang the Headmaster the same night immediately after talking to the journalists and former students. For the following several weeks Chairman and Headmaster devoted most of their time to the matter with the intention of allowing the rest of the School's leadership and staff to continue their regular duties with the least possible disruption in the interests of the current students.

The School immediately began to investigate what might be available in written records and through talking to staff members of the time. On the day after allegations were published in the media, even before it was possible to fully investigate the matter, the Chairman and Headmaster made a public apology for any wrong done by Lynch to former students involved. From the start the School determined to be open and supportive of victims and used its Counsellor (a qualified psychologist) to handle contacts with the School by alleged victims. Phone contact was soon made, at the School's invitation, from other former students who wished to inform the School of predatory sexual behaviour by Lynch toward them while they had been at the School. The accounts varied in detail but, with most, a consistent pattern also emerged as to Lynch's activities and modus operandi, which seemed to give further credence to the claims.

However, the School's internal enquiries and those of its lawyers, were unable to uncover anything to demonstrate that members of the School's staff had known anything of Lynch's abuses. In fact, to the contrary: what his personnel file reflected was good performance and commitment, for which he was rewarded with promotion. The records show no evidence of anything untoward in the circumstances of Lynch's departure, which came with his resignation that he himself advised the School was motivated to allow him to gain access to his superannuation entitlements.

Most staff of the time had regarded Lynch as a bit 'quirky' but they had also held him in esteem as both a teacher and counsellor. Several had put personal trust in him through family associations (not actions that would have been likely had there been a hint of serious misbehaviour). There was even a small number of phone calls to the School from former students who wished to put a different view of their experience of Lynch's counselling, which indicated that they considered they had benefited from his advice and had not received any improper advances. None of this seeks to deny the reality of Lynch's misconduct, but it does illustrate how in those times, and with the 'normal' (and, with hindsight, clearly overtrustful) procedures by which a student counsellor could then operate, it was possible for a paedophile to disguise his behaviour.

The death of Lynch by suicide in 1997 meant that the police were not involved in any inquiry, as there was no perpetrator to charge, although police knew at least some of the facts and it had been their advice to him that he would be charged that led to his taking his own life on the basis of complaints made to the police by a student at St.Paul's.

Compassion for the victims was not the only consideration for the School's authorities. There was also the need for the Board of Trustees to consider the protection of the fabric of the School. This meant that legal and insurance aspects also had to be taken into account. It soon became apparent that the insurance issues were complex, owing to the fact that there had been different insurers at different times in the course of the fifteen years in question. The School authorities steered a challenging path between a desire to meet obligations of compassion and support for former students (and in some cases also their

families), the requirements of its insurers, and a responsibility to mitigate uninsured costs against the School.

Eventually, almost 12 months later, a group of approx 65 former students brought individual actions against the School through the Brisbane law firm Shine, Roche, McGowan. Another 15 months afterwards these claims were individually mediated with the Chairman, the current Headmaster, a School counsellor and a legal representative participating in each hearing. Yet another 2 years on from that almost all those claims have been settled.

### *How did it happen?*

There are at least three elements in the Lynch situation which combined to enable Lynch to abuse students at Grammar over an extended period of years without detection or even suspicion.

First, paedophiles are clever and manipulative. For example, Lynch managed to construct a 'persona' among his colleagues that resulted in him being perceived as quirky but also led to him being an accepted member of staff who genuinely cared about students. It seems that he made full use of the issue of confidentiality for the effective relationship between counsellor and client. Potential victims were carefully selected: Lynch saw literally hundreds of students over the years and many of these were not 'selected' but were counselled appropriately or consulted him only about matters of career choice. Those whom he did select and with whom he commenced abuse were strongly encouraged to maintain confidentiality about what occurred; in some cases Lynch used a damaged or difficult family relationship to play the student off against his parents, posing as the true friend and confidant of the student. Lynch 'prepped' his targets against reporting and confused them about coming to grips with their sexual development, and/or dealing with their (often genuine) other problems (eg with parents), through his 'counselling techniques'.

A second factor that abetted Lynch's 'success' was the culture at that time among adolescent boys of not talking about such experiences. It may seem surprising in today's climate that such abuse would not be reported to a parent, teacher or fellow-student(s) but in the 70s and 80s society was not so aware and receptive. Also, victims possibly felt that confession would reflect badly on them rather than on the perpetrator. While teenage boys, then as now, were more than willing to talk about sex, at least among themselves, they were much less likely to admit that they had been duped into a sexual encounter with an adult male. At that time it was not common to find widespread media reporting of such abuse and it is doubtful that the public was aware that sexual abuse by those in positions of trust dealing with children and adolescents was a serious cause for concern. Nor should we lose sight of the strength of the Australian male culture of demonstrating self-sufficiency, which was perhaps a factor influencing male students, their fathers (and the relationships between the two) and teachers (who were at that time at Grammar almost all male).

Following on from this last point is a third, related, factor. When Grammar appointed Lynch as its first ever School Counsellor it was early days for the provision of

personal counselling. Previously, such serious personal counselling as occurred was undertaken, at least in independent and religious systemic schools, by priests, chaplains, or occasionally by Heads or senior pastoral staff members. Beyond this, pastoral care of students was still relatively embryonic; such as it was, it would have been of an *ad hoc* nature, where a teacher with good empathy for students might play an informal mentoring role. So, at the time Lynch began as a formally appointed counsellor at Grammar, his role would have been seen as an advanced move in an independent school<sup>2</sup>. There was little history to suggest the associated importance of establishing and maintaining measures of accountability to guard against abuse of students by a counsellor. Linking the cleverness previously mentioned to this situation, Lynch was able to play upon common expectations, even today, of invoking “confidentiality” of the counselling relationship as a reason for operating with very limited procedural checks.

*What do we think we did ‘well’:*

What follows in this part is not intended to be self-congratulatory, but to recognise and to try to identify why many members of the Grammar community have commented that the School authorities won the respect of that community for its handling of the Lynch matter once it was revealed. This must be taken in the context of other similar revelations of institutional abuse where public perception has been that those matters might have been handled in better ways. Several things seem to have contributed to the community perception of Grammar’s handling of the matter:

- The School’s most senior authorities aimed to be open, honest and supportive of victims.
- Lines of communication with the School were immediately established for victims; counselling procedures were set up and offered to those who wished to avail themselves. An independent psychiatrist, Dr Joan Lawrence, was appointed to interview victims and to make recommendations as to appropriate treatment. Dr Lawrence’s reports were confidential and were not disclosed to the School’s authorities beyond her recommended advice. The School covered those who subsequently chose to undertake professional counselling for any out-of-pocket expenses.<sup>3</sup>
- The Chairman and Headmaster communicated quickly both publicly and internally with various groups in the School community (through avenues including the weekly Newsletter which is available publicly on the School’s website, staff meetings, P&F meetings, Speech Night, alumni functions). Thus, the School community was kept informed as to the progress of the matter. Individual questions as to the situation were answered as candidly as possible, sometimes steering a fine line between being open and protective of the School’s legal and insurance position.

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<sup>2</sup> Brisbane Grammar School is not a religiously associated school but a statutory entity set up under the Queensland Grammar Schools Act. It does not include a chaplaincy among its staff. Its pastoral support system at that time was fairly limited in terms of teachers with special responsibilities in this area, in its pastoral structure and thus in its ability to respond effectively to students’ welfare needs.

<sup>3</sup> It was a matter of some satisfaction to the School’s authorities that productive outcomes were reported among a number of those who took up this offer.

The personal concern of the School's Chairman, together with his legal experience, made for a specially valuable combination in taking account of the interests of both victims and the School.

- At the outset advice was sought from external experts in the psychological field to help guide the School's authorities in handling the matter.
- The Chairman and Headmaster took a brief refresher course of professional advice in dealing with the media.
- The Board Chairman and Headmaster took on the responsibility and operational task of handling the matter at the School's level with the deliberate intention of allowing the rest of the staff to continue 'business as usual' for the benefit of current students and parents. This meant that for the best part of two full weeks both essentially forewent any other professional duties. Much more time was to be engaged over the following three years, with a further three weeks fully engaged for both in the mediations.

*Learnings for the future:*

These suggested actions are obviously not meant to be comprehensive but are the outcome of reflection within the context of the experience at Brisbane Grammar School of the Lynch matter. The actions are separated into: (i) those which may help to prevent another similar situation arising and (ii) those which might be considered in the invidious case of a similar situation having occurred.

(i) *What can we do to prevent sexual abuse of students in our schools?*

- Have both counselling staff who are fully trained professionals, procedures that are accountable and transparent, and also policies<sup>4</sup> that are clearly published and easily available to all and that are understood by all;<sup>5</sup>
- Aim to establish a climate where students can/will bring matters to the attention of appropriate others if things are not right (don't be misled into thinking that the more open community climate of today will necessarily deter would-be child abusers); ensure that there are multiple people to whom a student can choose to report a concern;

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<sup>4</sup> These policies are now required to comply with State legislation in Queensland (see esp Qld's Education (Accreditation of Non-State Schools) Act [2001] Regulation 10)

<sup>5</sup> There is a complex issue for both professional counsellors and for administrative authorities to enable the confidentiality required for a student to entrust fully sometimes very sensitive personal information to that counsellor. Without that trust of confidentiality many students will not disclose to a counsellor their innermost fears or concerns. There is the further responsibility of both counsellor and school authorities to meet obligations to parents of a student who may be undergoing counselling. There is the obligation for schools to comply with the relevant legislation concerning child abuse while still maintaining a functioning learning institution where teachers can work without feeling so constrained that they leave the profession or fail to show appropriate pastoral care of students.

- Exercise eternal vigilance, without allowing ‘paralysis’ or paranoia to set in; (it is easy for teachers to become concerned that they cannot interact sensibly with children and adolescents without risk of allegations from parents and others of child molestation – ‘no touch’ policies in some schools might be considered as a sad and even deplorable result of this climate of fear of alleged offence; another disturbing negative outcome is the increasing reluctance of males to engage in teaching careers where they would work with younger children)<sup>6</sup>;
- Attend to the deliberate and overt definition and construction of positive and professionally appropriate culture and values about interpersonal relationships, whether it be between teachers and students or among students themselves; such construction of the environment should include both the establishment and operation of processes for appropriate behaviour and for reporting of inappropriate behaviour; this will include training of staff in schools and regular reminders of processes and expectations.
- Processes ... processes ... processes: without these being in place, communicated, understood and followed further sexual abuse (and other forms of abuse) is likely to occur.

(ii) *What can we do to handle well cases of sexual abuse, if they occur in our schools?* (nb many of these ‘crisis management’ measures are not restricted to preparation for dealing with paedophilia cases)

- Ensure that senior staff and the Board’s spokesperson (normally the Chairman) are trained in handling the media;
- Have a prepared relationship with a trusted PR adviser who is mature in his/her experience and judgement and with whom there is a ‘comfortable’ relationship between adviser and client);
- Be prepared to navigate the balance between any appropriate admission and/or apology to victims on the one hand, and duties to one’s insurer and possible problematic legal admissions on the other;
- Be absolutely sure that insurers are advised of any situation that might lead to a claim (there should be an annual review of such situations when policies are due for renewal; it is wise to alert relevant staff to keep summary notes throughout the year in readiness);
- Have a ‘tight’ team of those who will deal directly with the situation; ensure that the team is well briefed and maintains good communication among its members;

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<sup>6</sup> A similar concern is the increasing reluctance of teachers to take excursions or to supervise sporting fixtures for fear of litigation in the event of an accident or injury.

- Be as open as possible in communications, issuing accurate, up-to-date, consistent information through a planned variety of channels;
- Be prepared for the possibility of having to manage some very difficult personalities; non-professional experience will need to be complemented by professional advice to assist in managing seriously delusional, maybe even dangerous, people;
- Don't be under an illusion that those who came forward were the only victims; at Grammar we know that there were others than those who chose to litigate: some sought counselling help only; others elected to manage their own situation. Those others need also to be 'recognised' somehow and possibly assisted (e.g. by counselling or merely by being allowed to tell their story to a sympathetic person from the institution);
- In such a situation, expect that other, non-related claims/issues will emerge; we were warned of this and several such cases did emerge that were not "Lynch-related"; these too need to be handled;
- Have a 'sunset' plan: think through the issue of setting a wind-up timeframe to the formal processes of dealing with the matter.

*Summary:*

Most, if not all Australian States now have in place legislation regarding child abuse that must be complied with by all registered schools, so schools have no option but to comply with the establishment and operation of policies and processes to deal with child abuse.

None of this is easy. Well-thought through procedures must be in place for reporting and acting upon abuse; those procedures must be written and must be made available to all concerned; most importantly, they must be understood by all concerned. Eternal vigilance must be a watchword, and processes must be enacted and checked regularly to ensure that they are operating.

However, this is not enough. All concerned in schools must understand that a safe and secure environment for learning is a necessary prerequisite not only for protection against paedophilia but more generally as a *sine qua non* for effective learning to take place. Furthermore, it is each school's responsibility to actively establish a climate of respect and trust within its community. For then, there is the further chance that happiness and enjoyment may also be part of a school that operates as an effective learning community.