



**Non-State Schools
Accreditation Board**

Queensland Government

19 August 2009

FILE COPY

Bishop William M Morris DD
The Corporation of the Roman
Catholic Diocese of Toowoomba
PO Box 756
TOOWOOMBA QLD 4350

Dear Bishop Morris

I refer to your previous correspondence dated 20 February 2009, 5 May 2009 and 10 June 2009 on behalf of The Corporation of the Roman Catholic Diocese of Toowoomba ("the Governing Body").

I advise that, for the reasons outlined in this letter, the Non-State Schools Accreditation Board ("the Board") does not consider that the submissions made in your letter dated 10 June 2009 constitute a sufficient or adequate response by the Governing Body to the issues that have arisen.

Having considered your letters dated 20 February 2009, 5 May 2009 and 10 June 2009 and the material provided with them, the Board's view is that the actions of the employees of the Governing Body, both the staff at the primary school [redacted] ("the School") and the staff at the Catholic Education Office Toowoomba, demonstrate a systemic failure to understand the obligation to report suspected sexual abuse to the police.

None of the relevant staff at the School or at the Catholic Education Office Toowoomba who received information in September 2007 about the teacher considered that the information might give rise to a suspicion of sexual abuse by the teacher. Neither Mr Fry's nor Mr Hunter's notes disclose that their discussion with the Principal even canvassed the possibility that the information should be reported to the police.

This is so even though both Mr Fry and Mr Hunter were aware that the Principal had had occasion, even before receipt of the information on 6 and 7 September 2007, to counsel the teacher to the effect that the teacher should keep his hands to himself, that the teacher was 'vulnerable to perceptions' and that the teacher should review the Governing Body's material about student protection. According to Mr Fry's notes, the Principal's conversation with the teacher occurred on 5 July 2007; according to Mr Hunter's notes, it was on 5 July 2008 (see annexures 2 and 3 to your letter dated 23 February 2009). The date recorded in Mr Hunter's notes cannot be correct.

In view of that serious prior discussion the Principal had had with the teacher, which he disclosed to Mr Fry and Mr Hunter when seeking their advice, it is even more difficult to understand why those persons failed to recognise that there might be a reasonable suspicion of sexual abuse by the teacher.

Furthermore, when the Principal consulted Mr Fry about the wording of the Principal's proposed correspondence to the teacher, Mr Fry in consultation with Mr Hunter, deleted the words "placing your hand down the pants of a girl" from the draft letter. As a consequence, the letter which the Principal sent to the teacher omitted those significant words (see annexure 5 to your letter dated 5 May 2009).

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These are issues of grave concern to the Board and reflect poorly on the Governing Body's commitment to student protection.

The Board notes that the Governing Body still has not provided a copy of the Student Protection Kit that was in effect at the School in 2007 and 2008, as requested by the Board. Your letter dated 20 February 2009 included a copy of a template Student Protection Kit that was unsigned, undated and not specific to the School, although the template clearly contemplated the insertion of individual information to customise it for a particular school. Your letter dated 5 May 2009 included a copy of a Student Protection Kit that is dated 28 April 2009 and could not have been in effect at the School in 2007 and 2008.

The Board considers that both the template and 2009 versions of the Student Protection Kit that have been produced are inadequate.

The Board notes that the Student Protection Kit is not up to date with current legislation. As an example, it contains many references to the superseded *Education (General Provisions) Act 1989*.

In addition, the Student Protection Kit presents as too cumbersome and difficult for staff to use. It appears to be a compendium of documents, including:

1. Foreword by John Borserio, Director, Catholic Education Office, Toowoomba.
2. A page entitled "Part A".
3. A contents page for the Student Protection Policies and Procedures Manual, which refers to seven separate sections.
4. Catholic Education Board Child and Youth Protection Policy.
5. Register of Updates.
6. A page entitled "Student Protection Risk Management Strategy" (which includes a separate contents page which refers to ten separate sections and seven appendices - the contents mentioned here are different to those mentioned in the previous contents page).
7. Section 1 Framework.
8. Section 2 Responding to Allegations (this section itself has ten separate parts).
9. Section 3 Action to Prevent Harm to Students (this section has eleven clauses and eight appendices).
10. Section 4 Information on Students' Protection.
11. Section 5 In-Service and Education for School Communities.
12. Section 6 Legal Matters.
13. Forms.

These various documents comprising the Student Protection Kit do not appear to have been contextualised into a coherent whole manual. There is no index. There is no consistent numbering of sections, parts, pages and clauses throughout. There is a deal of repetition. There is overuse of emphasis of text by means of italics, bolding, capitalisation and boxes (and combinations of those). Sometimes entire pages of text are subject to emphasis by one or more means.

The Board does not consider the Student Protection Kit as a whole consistently and accurately reflects the provisions of section 366 of the *Education (General Provisions) Act 2006*.

The requirement to notify the police where there is a suspicion of sexual abuse of a student by a current employee is repeated in many places in the Student Protection Kit. However, the message is not clear and consistent, for example:

- Paragraph 1.2 in Section 2, Part 1 (page 5 of Section 2) - where there is 'knowledge' or reasonable suspicion of sexual abuse of a student by an employee, the staff member who first becomes aware or suspects must report it in writing to the principal or director of the governing body, who must report it to police.
- On page 2 of Section 2, under the heading 'Responding to allegations of harm and inappropriate behaviour', it is indicated that it is mandatory for 'staff' to report to police if they become aware of or reasonably suspect that a student has been sexually abused by someone who is an employee of the school.
- On page 3 of Section 2, under the heading 'Rights and responsibilities of staff members' it is indicated that nothing prevents the principal or other staff members from immediately notifying police, but with the qualification 'if they believe it is essential to act without even minimal delay'.
- On page 8 of Section 2, in paragraph 2.1, it seems to indicate that the principal must notify police 'if there is a written report' alleging sexual abuse of a current student by a current employee of the school or if 'there are reasonable grounds for believing that there is an immediate risk of further harm to the student if the matter is not dealt with without delay'.

The Student Protection Kit mentions, in paragraph (b) of an unnumbered clause under the heading 'PART 2 - Initial Assessment of how to proceed' on page 8 of section 2, that where there is any doubt about an allegation that a student has been sexually abused by an employee of the school, the decision must be in favour of acting on the allegation. That is the only mention of that concept in the Student Protection Kit and in the Board's view, it is one which is worthy of greater emphasis and prominence.

The staff at the School seem to have believed that the information they received from parents about the teacher on 6 and 7 September 2007 had to be put in the form of a formal complaint in writing by the parent before they should act on it. The Board is unsure what the genesis of this mistaken belief is.

Section 366 requires that, when a staff member becomes aware or reasonably suspects sexual abuse of a student by an employee of the student, the *staff member* must generate a written report about it and give that written report to the police. It is not necessary that the staff member should have become aware by means of a written complaint from a parent.

The Board notes that both the Principal and the Assistant Principal (Religious Education), upon respectively being given potentially serious information about the teacher by parents at the School, counselled the parents that their only courses of action were to make a 'formal complaint' or to report the matter to the police themselves (see for example, paragraphs 5.1(f) and 5.2(c) of your letter dated 10 June 2009). In other words, they apprehended that the information they had received from parents might be something that should be reported to the police, but they were content to leave the onus for that with the parents.

The Board considers that this systemic failure to understand the obligation to report suspected sexual abuse to the police is likely to continue, unless the deficiencies in the Student Protection Kit are corrected and addressed. The Board notes your advice, in your letter dated 10 June 2009, that the Student Protection Kit is to be reviewed in 2010. With respect, the Board considers that the review should be undertaken as a priority, rather than left till next year.

The Board considers that the Governing Body has failed to demonstrate how the written processes are appropriately implemented in practice.

The Principal, Ms Long, Ms Wagstaff, Mr Fry and Mr Hunter all failed to recognise that the information received on 6 and 7 September 2007 from different sources might give rise to a reasonable suspicion that a student at the School had been sexually abused by the teacher.

Subsequent failures to comply with the Student Protection Kit flow from the initial failure to suspect sexual abuse.

Ms Wagstaff did not document the information that came to her in the manner required by section 2, part 1, clause 1.1 of the Student Protection Kit and did not report the information to the Principal in writing as required by section 2, part 1, clause 1.2 of the Student Protection Kit. Neither did the Principal or Ms Long document the information received by them in the manner required by section 2, part 1, clause 1.1 of the Student Protection Kit.

The Principal failed to comply with section 2, part 2, clause 2.1 of the Student Protection Kit.

Mr Fry and Mr Hunter failed to provide appropriate advice to the Principal about the reporting of the information to police and failed to comply with the fifth dot point on page 7 of section 3 of the Student Protection Kit.

The Principal, Mr Fry and Mr Hunter all failed to take heed of section 2, part 2 "Initial Assessment of How to Proceed", paragraph (b) of the Student Protection Kit, which provides that where there is doubt, the decision must be in favour of acting on the allegation.

The Board considers that the likelihood of failures such as these recurring in the future will be reduced by a detailed review of the Student Protection Kit, in conjunction with improvements in the training of the staff of the Governing Body.

A compliance notice under section 61 of the *Education (Accreditation of Non-State Schools) Act 2001* is enclosed for your attention.

I draw your attention to the requirement in the compliance notice that you, as Governing Body, approve and supply to the Board by 18 October 2009 the materials set out in paragraph 8 of the schedule to the compliance notice.

Yours sincerely



Emeritus Professor Roy Webb AO
Chairperson

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